

ALPHABETIZED BIBLIOGRAPHY ENTRIES

"ACAS conciliated settlements" Industrial Relations Legal Information Bulletin August 15, 1992 N.456 pp. 2-11 Great Britain's service for providing alternative dispute resolution, the Advisory, Conciliation, and Arbitration Service (ACAS), has begun to have a major impact in the industrial labor area. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

"Beyond Arbitration: Designing Alternatives to Securities Litigation" (book review) Legal Information Alert May, 1992 V.11 N.5 pp. 6(1) Intended for practitioners involved in securities industry disputes, the authors review and present a method for resolving broker-customer disputes through alternative dispute resolution. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: BOOK REVIEW

"Brokerage wins preliminary bar against arbitration before AAA" Tax Management Financial Planning Journal December 15, 1992 V.8 N.12 pp. 457(1) Summary of a case in the Florida District Court in which a brokerage firm was granted a preliminary injunction barring a dissatisfied customer from arbitrating her claim before the American Arbitration Association because it was not one of the available forums specified in the brokerage agreement. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Calif. court says investor entitled to judicial ruling on arbitrability" Tax Management Financial Planning Journal March 17, 1992 V.8 N.3 pp. 111-112 This article describes the case of Rice v. Dean Witter Reynolds, Inc., in which the California Court of Appeals held that an investor who had made a sufficient showing of fraud in the inception of her customer agreement was entitled to a judicial determination on the arbitrability of her claim. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ JUDICIAL PARTICIPATION

"Chinese Negotiating Style: Commercial Approaches and Cultural Principles" Law and Policy in International Business June 22, 1992 -

Summer V.23 N.4 pp. 1071(1) This book is a resource for those seeking commercial agreements with Chinese parties as well as for government officials participating in diplomatic negotiations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW

"Chinese Negotiating Style: Commercial Approaches and Cultural Principles" (book review) The Transnational Lawyer March 22, 1992 - Spring V.5 N.1 pp. 563(1) Book review which recommends the aforementioned book for those interested in traditional Chinese negotiating process, especially cultural considerations and troubleshooting techniques. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

"Commercial Arbitration for the 1990s (book review) Law Office Economics and Management January 1992 - Winter V.32 N.4 pp. 510(2) This is a book review of "Commercial Arbitration for the 1990s." The book is described as a practical guide to domestic and commercial arbitration, as well as federal arbitration law. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW/ LEGISLATION

"Family conciliation in crisis" (Scotland) Journal of the Law Society of Scotland August, 1992 V.37 N.8 pp. 324-325 This short article describes the family conciliation program in Scotland - a voluntary mediation service offered to divorcing couples in dispute over issues including their children - and pleads for financial support from the legal community. MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L

"Getting Past No: Negotiating with Difficult People" Harvard Law Review April, 1992 V.105 N.6 pp. 1432-1433 This article is a guide to building better bargaining relationships by stressing cooperation over

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competition, and to dealing with obstinate personalities. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ TYPE OF SOURCE: BOOK REVIEW/ DISPUTE PREVENTION/ FAIRNESS

"International Arbitration: Past and Prospects, a Symposium to Commemorate the Centenary of the Birth of Professor J.H.W. Verzijl, 1888-1987" American Journal of International Law October, 1992 V.86 N.4 pp. 859-860 Discussion of "colloquium" where Russian/Soviet legal experts gathered to discuss international law and the effects on Russia.

"Investor's dispute with brokerage not subject to arbitration agreements" Tax Management Financial Planning Journal March 17, 1992 V.8 N.3 p. 112 This article describes the case of McPheeters v. McGinn Smith and Co. Inc. in which the Second Circuit found that an investor's dispute with his brokerage is not subject to the arbitration agreements that the investor signed with the brokerage's clearing firm. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ JUDICIAL PARTICIPATION

"IRS issues temporary guidance on issuance of determination letters" Tax Management Compensation Journal February 7, 1992 V.20 N.2 p. 49 The article discusses changes in the tax law regarding the qualified status of determination letters. The law specifically changes eligibility requirements to allow new types of plans, which now include collective bargaining plans. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: SECURITIES

"Law and Practice of International Commercial Arbitration, 2d ed." (book review) Journal of International Arbitration December, 1992 V.9 N.4 pp. 199-200 Redfern and Hunter present an indepth, rigorous and systematic analysis of all of the legal aspects of the international commercial arbitral process by combining the features of a classic treatise and those of a practitioner's handbook. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND

**ENFORCING AGREEMENT TO ARB/ SUBJ MATTER:
COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW/
REQUIREMENTS: STATUTORY OR RULES**

"Making sense of rules of privilege under the structural (il)logic of the Federal Rules of Evidence" Harvard Law Review April, 1992 V.105 N.6 pp. 1339-1358 This article discusses privilege as it exists in the Federal Rules of Evidence and what type of privilege should be extended to mediators. 3RD PARTY: LIABILITY & IMMUNITY/ CONFIDENTIALITY

"NASD proposed rules barring class suits in arbitration proceedings" Tax Management Financial Planning Journal August 18, 1992 V.8 N.8 pp. 303(1) This brief article discusses the National Association of Securities Dealers' proposed rules barring class action participants from NASD arbitration proceedings primarily because the industry forums are not able to handle class action suits as efficiently as the courts. INST NATURE: GENERAL/ SUBJ MATTER: SECURITIES/ ORGANIZATION POLICIES AND RULES

"NASD proposes swifter suspensions if members don't pay arbitration awards" Tax Management Financial Planning Journal March 17, 1992 V.8 N.3 pp 111 (1) This article describes a proposal by the National Association of Securities Dealers which would provide that members who fail to pay arbitration awards could be suspended without a hearing. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ COMPLIANCE ISSUES/ ORGANIZATION POLICIES AND RULES/ SUBJ MATTER: SECURITIES

"Negotiating local terms at West Dorset Community Health Trust" (United Kingdom) IRS Employment Trends November 15, 1992 N.524 pp. 11-13 The article examines a specific case study in which medical persons negotiate labor contracts. Local and personal negotiating is emphasized as a positive means for employees to voice concerns in a pro-active manner. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

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"New agency law" (Commercial Agency Law, Bahrain) Middle East Executive Reports September, 1992 V.15 N.9 pp. 9(2) Bahrain's new commercial agency law promotes the inclusion of an arbitration clause providing that any dispute arising from the agency agreement be referred to arbitration. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: STATUTORY OR RULES

"Patent Alternative Dispute Resolution Handbook" (book review) Journal of the Patent and Trademark Office Society March, 1992 V.74 N.3 pp. 221-220 Book review of Tom Arnold's latest work, Patent Alternative Dispute Resolution Handbook. Reviewer praises Arnold's comprehensive treatise on patent law and the effective uses of ADR SUBJ MATTER: SCIENCE & TECHNOLOGY/ TYPE OF SOURCE: BOOK REVIEW

"Restructuring terms and conditions for British Gas staff" (Great Britain) IRA Employment Trends January 1992 V.503 pp.8-11 One British company includes an arbitration provision in workers' contracts in order to specify the type of resolution mechanism that will be used in the event that labor disputes arise. This provision serves as a basis of party agreement on arbitration and aids in resolving disputes more quickly. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ DISPUTE PREVENTION/ POWER IMBALANCE

"State arbitration estops investor from pursuing federal claim" Tax Management Financial Planning Journal August 18, 1992 V. 8 N. 8 pp. 303-304 This holding discusses the decision in Cofee v. Dean Witter Reynolds, Inc., No. 91-1020 (10th Cir. 4/14/92), where the Tenth Circuit ruled that the arbitration of state law claims concerning security issues can collaterally estop federal claims which were found to be non-arbitratable. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ISSUE & CLAIM PRECLUSIVE EFFECTS

"Select bibliography: Uruguay Round issues" (Symposium: The Uruguay Round and the Future of World Trade) Brooklyn Journal of International Law January, 1992 V.18 N.1 pp. 197-224 Author provides an extensive bibliography of sources dealing with issues from the Uruguay Round of negotiation on GATT (General Agreement on Tariffs and

Trade). The bibliography is conveniently organized into sections based upon the most commonly discussed aspects of GATT, such as dispute settlement. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL

"Settlement slump halted" (Great Britain) Pay and Benefits Bulletin April, 1992 N.303 pp. 2-3 This article reports that for the first quarter of 1992, pay settlement levels in manufacturing and service sectors leveled off for the third consecutive quarter, indicating possible economic recovery. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-ECONOMIC/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

"Significant 1991 court decisions" Business Lawyer August, 1992 V.47 N.4 pp. 1677-1717 The article discusses significant 1991 court cases regarding the regulation of securities, including the types of claims for which arbitration may be compelled. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Smart Negotiating: How to Make Good Deals in the Real World" (book review) Florida State Bar Journal December, 1992 V.66 N.11 p. 78 Author of the book contends that the two most popular negotiating techniques, the competitive style and the cooperative style, are not effective in realistic negotiation situations. The author alternatively proposes his "game plan" approach. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP

"Supreme Court judge directs parties to enter mediation: concern for costs and fairness" (New South Wales) Law Society Journal April, 1992 V.30 N.3 pp. 22(2) Stating that mediation would best serve the interests of the parties, the justice system, and the public, a judge in New South Wales ordered a potentially costly and time consuming commercial law related case to mediation for resolution. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC-GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL

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COURTS/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS:
MANDATE TO USE/ ECONOMIC ADVANTAGES OF ADR/
FAIRNESS

"Systematic Analysis in Dispute Resolution" (book review) Yale Journal on Regulation January, 1992 - Winter V.9 N.1 p. 270 Systematic Analysis in Dispute Resolution (edited by Stuart S. Nagel and Miriam K. Mills) discusses the growing popularity of ADR and its use in various areas. The book examines the use of computer-based systems in settling disputes. SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW

"The devolution of pay bargaining" (The Changing Role of Trade Union Officers, part 1) IRS Employment Trends December 15, 1992 N.526 pp. 5-12 The article reviews a survey conducted to determine factors, such as decentralization of pay bargaining, trade union derecognition and new payment methods, that have affected the jobs of full-time trade union officers in the U.K. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

"What price justice?" (a survey of the legal profession) The Economist July 18, 1992 V.324 N.7768 pp. S17(2) This is a short article discussing the new trend of ADR replacing litigation as a faster means of justice at a less costly price; however, the article alludes to the fact that an overlooked cost of the switch may be people having to sacrifice their own interests. INST NATURE: GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ FAIRNESS/ QUALITY CONTROL/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

Abbott, Kenneth W. "GATT as a public institution: the Uruguay Round and beyond" Brooklyn Journal of International Law January, 1992 V.18 N.1 pp. 31-85 As the subject matter of GATT becomes more extensive, and additional nations become party to the agreement, it is necessary that institutions be developed that can handle the administrative complexities associated with implementing the new Gatt agreement that comes out of the Uruguay Round, including the new dispute settlement process. NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ CONFERENCE PROCEEDINGS

Abbott, Kenneth W. "The Uruguay round and dispute resolution: building a private-interests system of justice" Columbia Business Law Review January, 1992 - Winter V.1992 N.1 pp. 111-164 This article analyzes the highlights, and potential highlights of the Uruguay Round of multilateral trade negotiations in the area of dispute resolution. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

Abramson, Harold I. "A primer on resolving disputes: lessons from alternative dispute resolution" New York State Bar Journal March, 1992 V.64 N.3 pp. 48-54 The article discusses various methods for resolving disputes, including ADR, and then presents a strategy for selecting the best method for resolving particular disputes. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC-MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC-SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST NATURE: JUSTICE SYSTEM- SMALL CLAIMS COURTS/ SUBJ MATTER: GENERAL

Ackroyd, William "Independent adjudication" Family Law April, 1992 V.22 pp. 225(1) The author's commentary asserts that the British courts need greater power in the area of children's health and welfare because currently the balance of power favors the parents and local municipalities too heavily. INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Ahdab, Abdul Hamid "Why create the Arab Association for International Arbitration?" Journal of International Arbitration March, 1992 V.9 N.1 pp. 29-33 Because of the relative shortage of arbitration associations in Arab nations, the Arab Association for International Arbitration (AAAI) was created in September, 1991, to encourage the use of arbitration in Arab nations. ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST

BIBLIOGRAPHY

NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/
COMPARISONS: CROSS-CULTURAL/ COMPARISONS:
HISTORICAL/ ORGANIZATION POLICIES AND RULES/ QUALITY
CONTROL

Alhadeff, Alan "A preparation guide for mediation" Corporate Counsel's Quarterly October, 1992 V.8 N.4 pp. 111-122 The author broadly discusses mediation and compares it to other forms of alternative dispute resolution. The author also includes a brief preparation guide detailing some of the basic steps to follow in the mediation process.
MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: GENERAL/ AGREEMENT ON PROCEDURE/ CONFIDENTIALITY/ ORGANIZATION POLICIES AND RULES

Ali, Syed M.; Karim, Ahamd R. "An empirical examination of determinants of faculty attitude toward collective bargaining" Journal of Collective Negotiations in the Public Sector January, 1992 - Winter V.21 N.1 pp. 79-91 Through specific case studies and individual evaluations, the authors discuss the perceptions and attitudes of educational faculty towards collective bargaining agreements. The article specifically focuses on college teachers in each case study. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL/ SELECTION OF APPROPRIATE PROCESS

Amerasinghe, C.F. "Mixed International Arbitrations: Studies in Arbitration Between States and Private Persons" (book review) Foreign Investment Law Journal March 22, 1992 - Spring V.7 N.1 pp. 290-294 Book review about Stephen J. Toope's new book which deals with arbitration between states and private parties. The author discusses the Iran-U.S. Claims Tribunal as an example of arbitration between states and private parties. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L

Ames, Stuart D. "Securities Arbitration, Law and Procedure" (book review) Florida Bar Journal March, 1992 V.66 N.3 pp. 58-59 Book review on Securities Arbitration, Law and Procedure, which the reviewer calls one of the most comprehensive treatises in this highly fragmented area of law. The book walks the reader through securities industry's

arbitral process from forum selection to judicial enforcement of the award.
ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: SECURITIES

Anderson, E.E. "ADR and civil justice reform" Compleat Lawyer
September 22, 1992 - Fall V.9 N.4 pp. 16(3) This article provides an
update on recent legislation and highlights several ADR remedies proposed
by the ABA in its effort to improve the civil justice system. INST
NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST
NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC POLICY/
DISPUTE PREVENTION/ LEGISLATION

Anderson, Mark G. "Waiver of a contractual arbitration agreement by
causing prejudice to the opponent: should federal courts adopt a bright-line
test?" Journal of Dispute Resolution March 22, 1992 - Spring V.1992
N.1 pp. 175-196 This note examines the various federal court tests to
determine when waiver of contractual argeements to arbitrate occur and
argues that the bright-line tests are proper. ARB: BINDING ARB-
GENERAL/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE:
JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: COMMERCIAL/
SELECTION OF APPROPRIATE PROCESS

Anderson, Mark G. "Arbitration clauses in retainer agreements: a
lawyer's license to exploit the client" Missouri Journal of Dispute
Resolution September 22, 1992 - Fall V.1992 N.2 pp. 341-359 Article
discusses arbitration clauses in retainer fee agreements. The author claims
that any time an arbitration is confronted with a case involving a fee
dispute, all doubts should be construed in favor of the plaintiff and not the
attorney. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-
GAME THEORY/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/
REQUIREMENTS: CONTRACTUAL CLAUSES/ ETHICS: GENERAL

Appleton, Marilyn "Conciliation and solicitors" Solicitors Journal
October 2, 1992 V.136 N.38 pp. 996(1) People in Great Britain who
cannot afford privately-retained attorneys have found that conciliation is an
effective method in the overall process of settling domestic relations
disputes. MED: RELATED PROCESSES-GENERAL/ MED: OTHER
JUDICIAL SETTLEMENT DEVICES/ MED: PSYCH FACTORS/
SUBJ MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC
ADVANTAGES OF ADR

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Archer, F. Mather "An idea worth trying" Quarterly (CLS) January, 1992 - Winter V.12 N.4 p. 14 The article strongly advocates dispute resolution as a necessary ingredient to court reform of the future. The author urges traditional defenders of the adversarial system to identify and recognize where the legal system has fallen short, and asks the legal community to recognize that some disputes may be better resolved in an alternative forum. SUBJ MATTER: GENERAL/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR

Arnold, Edwin; Scott, Clyde; Rasp, John "The determination of incumbent union victory in raid elections" Labor Law Journal April, 1992 V.43 N.4 pp. 221-228 The authors state the results of their research associated with union raid elections over a 14-year period, and use the results to propose a model for determining the outcome of these elections for incumbent unions. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: REGULATORY

Arzt, Donna E.; Zughaib, Karen "Return to the negotiated lands: the likelihood and legality of a population transfer between Israel and a future Palestinian state" (Nationalism and Self-Determination) New York University Journal of International Law and Politics June 22, 1992 - Summer V.24 N.4 pp. 1399-1513 Article claims a voluntary two-state solution to the Israeli-Palestinian conflict is one most capable of effectuating lasting peace. Author advocates conciliation in the form of lawfully executed population transfer pursuant to a two-state solution. The article places the conflict in a historical context, assesses the likelihood of voluntary migration and explores the necessary components of an agreement for population transfer. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: INT'L

Asiedu-Akrofi, Derek "Bilateral investment treaties - applicable law - state responsibility - compensation standard" American Journal of International Law April, 1992 V.86 N.2 pp. 371-376 The author examines the first case submitted to ICSID arbitration based on a consent provision in a bilateral investment treaty, and criticizes the tribunals interpretation of Article 42 the convention. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ REQUIREMENTS: MANDATE TO USE/ AGREEMENT ON PROCEDURE

Assur, Eric T. "Community Mediation: A handbook for practitioners and Researchers" (book review) Federal Probation March, 1992 V.56 N.1 pp. 91-92 The use of mediation, arbitration, and conflict resolution is on the rise throughout the nation's criminal justice system. The review encourages practitioners to familiarize themselves with the nature of conflict, and the different types of ADR by reading Community Mediation. This book is a composite of ADR related articles written by lawyers, social psychologists, program organizers, and researchers.
MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

Attanasio, John B. "Foreword: verstehen and dispute resolution" (Symposium: Theories of Dispute Resolution) Notre Dame Law Review November, 1992 V.67 N.5 pp. 1317-1333 This article contrasts the methods of inquiry performed by sociologists and legal professionals. The author believes that the use of Verstehen, a methodology advanced by Max Weber, which focuses more on neutrality and objectivity, would work more efficiently in an ADR setting than in a judicial setting. NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: SERVING AS ARBITRATOR/ JUDICIAL PARTICIPATION

Babcock, Linda C.; Olson, Craig A. "The causes of impasses in labor disputes" Industrial Relations March 22, 1992 - Spring V.31 N.2 pp. 348-360 Research note investigating the causes of impasses in contract negotiations based on a study of negotiations between teachers and school boards in Wisconsin. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: PSYCH CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ TEACHING

Barret, David C., Jr. "Arbitrating agricultural disputes: the National Grain and Feed Association's Experience" (Symposium: 1991 American Agricultural Law Association Annual Conference) North Dakota Law Review March 22, 1992 - Spring V.68 N.2 pp. 539-565 An overview

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of the history of the National Grain and Feed Association's (NGFA) Arbitration System is given, as well as a thorough discussion of the procedures of arbitrating agricultural disputes today. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: FARM/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES

Baskin, Henry; Roth, Connor Ferrick "Go the extra mile to avoid trial" Family Advocate March 22, 1992 - Spring V.14 N.4 pp. 30(3) Article advocates settlement negotiations as a viable and effective alternative to the adversarial approach to divorce and identifies the distinguishing characteristics of divorce litigation and the way which ADR is capable of addressing those features. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES OF ADR

Baum, Victor S. "Here comes the judge you chose" Family Advocate March 22, 1992 - Spring V.14 N.4 pp. 53(4) This article argues the advantages of "litigant-selected judge proceedings" over conventional litigation and arbitration, including savings to taxpayers, speedy resolution of disputes, and an abbreviated appellate structure. ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- OTHER

Bebchuk, Lucian Ayre; Chang, Howard F. "Bargaining and the division of value in corporate reorganization" Journal of Law, Economics, & Organization April, 1992 V.8 N.2 pp. 253-279 Using a bargaining model of the Chapter 11 negotiation process, the authors demonstrate how equityholders are able to receive a share of the

reorganized firm's value and also determine the magnitude of this share in comparison to what debtholders can expect to receive. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ SUBJ MATTER: CORPORATE/ FAIRNESS/ ORGANIZATION POLICIES AND RULES

Berger, Ralph S.; Lewis, Gregory L. "AIDS and employment: judicial and arbitral responses" Labor Law Journal May, 1992 V.43 N.5 pp. 259-280 The authors address the problems of AIDS-related litigation in labor disputes and suggest that arbitration could be used as an effective tool in expeditiously handling HIV employment matters. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES

Berkeley, Arthur Eliot; McDermott, E. Patrick "The second golden age of employment arbitration" Labor Law Journal December, 1992 V.43 N.12 pp. 774-779 The authors believe that labor arbitration is increasing in popularity in the non-union sector, despite the fact that membership in unions is at a post-war low. The authors discuss the favorable treatment arbitration is receiving in the courts and they feel that retired judges, as well as trained arbitrators, will be needed as arbitration grows in popularity. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: PRIVATE JUDGING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Biagi, Marco "Employee representation in small and medium-sized enterprises: a comparative view" Comparative Labor Law Journal April, 1992 - Spring V.13 N.3 pp. 257-272 The author believes that inadequate union representation of employees of smaller enterprises results in ineffective protection of the interests of the workers. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT

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(UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ AGREEMENT ON PROCEDURE/ POWER IMBALANCE/ LEGISLATION

Black, Errol; Silver, Jim "Manitoba's experience with final offer selection: a comment" (response to Lawrence Kelly, *Labor Law Journal*, vol. 42, p. 381, June 1991) Labor Law Journal May, 1992 V.43 N.5 pp. 318-320 Challenged Lawrence Kelly's premise that Manitoba's Final Offer Selection is biased in favor of trade unions, with evidence that workers in small bargaining units have little bargaining power and need F.O.S. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-POWER/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Blackshaw, Ian S. "Resolving sports disputes by ADR" New Law Journal December 18, 1992 V.142 N.6581 pp. 1753(2) The article discusses various methods of dispute resolution used in resolving disputes in the sports arena and the benefits of these various methods. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS

Bogdanoff, Lee R. "The purchase and sale of assets in reorganization cases - of interest and principal, of principles and interests" Business Lawyer August, 1992 V.47 N.4 pp. 1357-1459 This article discusses the sale and purchase of assets under Chapter 11 reorganizations, including the art of negotiation involved in this sale and purchase. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: COMMERCIAL

Bowman, Cynthia Grant "The arrest experiment: a feminist critique" (Symposium on Domestic Violence) Journal of Criminal Law and Criminology March 22, 1992 - Spring V.83 N.1 pp. 201-208 In determining the role that arrest plays in deterring domestic violence, the author examines how quantitative studies fail to utilize available factors,

such as victim response, availability of support services, and community interests or goals. SUBJ MATTER: COMMUNITY/ . SUBJ MATTER: FAMILY (DOMESTIC REL)

Brauer, Walter C., III "Public law and arbitration" (Industrial Relations Research Association: Proceedings of the 1992 Spring Meeting) Labor Law Journal August, 1992 V.43 N.8 pp. 547-549 The article discusses the reviewability of arbitration awards in the contractual context and the tension between it and public law issues. ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ISSUE & CLAIM PRECLUSIVE EFFECTS

Brown, Harold "The case against contractual arbitration covenants" Franchise Law Journal March 22, 1992 - Spring V.11 N.4 pp. 112(3) This article discusses the inadequacies of arbitration as a dispute resolution mechanism for franchises and anticipates legislation that states may enact to alleviate these inadequacies. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-FINANCIAL DISINCENTIVES/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ FAIRNESS/ LEGISLATION

Budd, John W. "The determinants and extent of UAW pattern bargaining" Industrial and Labor Relations Review April, 1992 V.45 N.3 pp. 523-539 The author uses the results of two data sets associated with UAW contract outcomes to estimate the effects of target wage settlements on subsequent UAW negotiations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Buehler, Brice E. "How alternative dispute resolutions benefit attorneys" (includes related article) Arizona Attorney August, 1992 V.29 N.1 pp. 12(5) The article promotes ADR as the growing alternative for cost-effective dispute resolution in our country, and urges attorneys not to view

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ADR as a system that eliminates or replaces attorneys and litigation, but rather as a more cost-effective dispute resolution process which should include attorneys. SUBJ MATTER: GENERAL/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

Burlage, David A. "Negotiation and settlement of professional licensing board cases" (Colorado) Colorado Lawyer April, 1992 V.21 N.4 pp. 675(3) In this article, the author advocates that the disciplinary cases commenced by professional licensing boards should be settled by the licensee. The author then discusses the issues to be considered in the evaluation of a possible settlement. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: OTHER PROF MALPRACTICE/ SETTLEMENT: PRESSURES TO SETTLE/ CONFIDENTIALITY/ RELATION TO ONGOING LITIGATION/ ROLE OF LAWYERS

Cai, Wenguo "China's GATT membership: selected legal and political issues" Journal of World Trade February, 1992 V.26 N.1 pp. 35-61 The author strongly advocates China's proposed membership in GATT. While some issues must ultimately be addressed, all parties should be flexible and admit China on the basis of its economic benefit to GATT. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ SUBJ MATTER: RENTAL HOUSING

Cain, Maureen "Comment: the privatization of justice" Studies, in Law, Politics, and Society January, 1992 - Annual V.12 pp. 417-427 The author uses a feminist critique of the public/private distinction to question the common perception of the advantages of ADR over the court system. MED: PSYCH FACTORS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: PUBLIC POLICY/ FAIRNESS/ POWER IMBALANCE/ SELECTION OF APPROPRIATE PROCESS

Caldwell, Peter E. "The training of arbitrators and quality assurances of arbitration" Journal of International Arbitration September, 1992 V.9 N.3 pp. 99-104 This article discusses documented differences in perceptions of arbitration, training and selection of arbitrators, and makes suggestions for improvements to arbitration. ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: INT'L/ ROLE OF LAWYERS

Canan, Penelope "Environmental disputes in changing urban political economies: a dynamic research approach" Studies in Law, Politics, and Society January, 1992 - Annual V.12 pp. 287-308 The article studies community power dynamics, community conflict and environmental issues in order to develop a more compelling examination of public disputes; the article reflects on the social conditions for the cause of disputes to respond to criticisms of dispute research. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ MED: RELATED PROCESSES- GENERAL

Cane, Marilyn Blumberg; Shub, Patricia A. "The arbitrator's manual" Journal of International Arbitration September, 1992 V.9 N.3 pp. 69-98 The authors provide a general manual which an arbitrator can turn to for international arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ SUBJ MATTER: INT'L

Cane, Paul W., Jr. "Staying at "yes": how to avoid a busted settlement; tactics for negotiating enforceable deals and making them stick" (California) Los Angeles Lawyer September, 1992 V.15 N.6 pp. 26(7) This article discusses methods of negotiating enforceable settlements, consummating those agreements, and tactics to avoid the failure of settlement after negotiations are complete. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES

Cane, Paul W., Jr.; Abell, Nancy L. "Arbitration agreements: a key to avoiding employment trials and tribulations" Corporate Counsel's Quarterly January, 1992 V.8 N.1 pp. 17-27 The author discusses the use of arbitration agreements in employment disputes. Specifically, the article suggests that arbitration is an appropriate method of resolving discrimination claims, and can aid both employers and employees in effectively resolving such disputes. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR- GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ REQUIREMENTS: CONTRACTUAL CLAUSES

Cardenas, Emilio J. "Argentine - a judicial court intervenes in an arbitration started under the International Chamber of Commerce Rules"

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International Lawyer September 22, 1992 V.26 N.3 pp. 789-793 In some cases, when it is brought to the attention of the court that arbitration is progressing unfairly or that the context of the arbitration is unsuited for such a process, judicial courts will intervene so as to reach a more equitable resolution of the legal question. ARB: MANDATORY, COURT-ANNEXED- GENERAL / ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L

Carlson, Richard R. "The origin and future of exclusive representation in American labor law" Duquesne Law Review June 22, 1992 - Summer V.30 N.4 pp. 779-867 This article discusses the importance of exclusivity to American labor unions, its role in American labor law, and the possibilities for alternative forms of representation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Caron, David D. "Reputation and reality in the ICSID annulment process: understanding the distinction between annulment and appeal" Foreign Investment Law Journal March 22, 1992 - Spring V.7 N.1 pp. 21-56 Author distinguishes between annulment and appeal. If a decision is appealed the author says the issue should be separate from the original arbitral tribunals decision. An appeal gives no reason to suggest that a second panel of arbitrators will arrive at a better answer. An annulment sets aside the first decision and a system of control is in place under the ICSID. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L

Carroll, Robert M. "Consumer dispute resolution in Missouri: Missouri's need for a "true" consumer ombudsman" Journal of Dispute Resolution March 22, 1992 - Spring V.1992 N.1 pp. 67-104 This article advocates and explores the practicality of the handling the consumer complaints by an independent Consumer Ombudsman in the State of Missouri. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSUMER/ OMBUDSPERSON

Carron, Reid; Noecker, Kathlyn Ernst "The employer's duty to supply financial information to the union: when has the employer asserted an inability to pay? -or- (the boss says times are tough: how Truitt it is)" The Labor Lawyer September 22, 1992 - Fall V.8 N.4 pp. 815-830

This article examines the cases of NLRB v. Truitt Mfg. Co. and Nielson Lithographing Co. to determine exactly what claims of inability to pay by an employer will require the disclosure of the company's financial records to the union.

SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ORGANIZATION POLICIES AND RULES

Carver, Jeremy P. "Commentary on the UNCITRAL Model Law on International Commercial Arbitration" (book review) Foreign Investment Law Journal March 22, 1992 - Spring V.7 N.1 pp. 284-285 This book review recommends the aforementioned book for international arbitration practitioners interested in a brief description, explanation and clarification of the provisions of the UNCITRAL Model Law. SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ ARB: BINDING ARB-GENERAL/ LEGISLATION

Caudill, Steven B.; Oswald, Sharon L. "An alternative to Bemmell's method of investigating biases in arbitration" (includes reply by Brian Bemmels) Industrial and Labor Relations Review July 1992 V.45 N.4 pp. 800-805 Authors used an ordinal logit to re-estimate the field study of arbitration decisions presented by Bemmell. Authors claim their model is an improvement over Bemmell's model because it eliminates the problem of selectivity bias in evaluating arbitrator's decision. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ POWER IMBALANCE

Chang, Moonchul "The Law and Practice of Commercial Arbitration in England, 2d ed" (book review) Journal of Maritime Law and Commerce October, 1992 V.23 N.4 pp. 651-652 Book provides comprehensive, systematic analysis of all aspects of English arbitration. New trends in international arbitration and their current applications in England are discussed. Authors claim the Arbitration Act of 1979 catalyzed a revolution in the arbitration law of England by restricting the possibility of judicial intervention. A summary of recent case law is offered to chart the direction and future of arbitration in England.

Chang, Wang Sheng "A comparative survey of the rules of Arbitration Institute of the Sockholm Chamber of Commerce and the arbitration rules of the China International Economic and Trade Arbitration Commission"

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Journal of International Arbitration December, 1992 V.9 N.4 pp. 93-119 This article focuses on the similarities and differences of the rules administered by the Stockholm Chamber of Commerce (SCC) and the China International Economic and Trade Arbitration Commission.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/
SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/
LEGISLATION

Chatterjee, Charles "The Rainbow Warrior arbitration between New Zealand and France" Journal of International Arbitration March, 1992 V.9 N.1 pp. 17-28 Article considers some important legal issues which are primarily concerned with the interpretation of treaty law. Author discusses the controversy that has developed over the Rainbow Warrior incident. ARB: MANDATORY, COURT-ANNEXED- GENERAL/
ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L

Chatterjee, Charles "The Treaty of Asuncion: an analysis" Journal of World Trade February, 1992 V.26 N.1 pp. 63-71 The 1991 Treaty of Asuncion, which established a common market between Brazil, Argentina, Paraguay and Uruguay, proposed the usage of negotiation as the primary means of dispute resolution. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: GOV'T ENTITIES/
SUBJ MATTER: INT'L

Chaykowski, Richard P.; Slotsve, George A.; Butler, J.S. "A simultaneous analysis of grievance activity and outcome decisions" (Studies of Grievance and Arbitration Processes) Industrial and Labor Relations Review July, 1992 V.45 N.4 pp. 724-737 Authors develop an approach for simultaneously analyzing the determinants of the grievance filing activity and grievance outcomes at each stage of the grievance process. Authors use data from a Canadian private sector firm for the years 1980-81. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Chen, Jim C. "Appointments with disaster: the unconstitutionality of binational arbitral review under the United States-Canada Free Trade Agreement" Washington and Lee Law Review September 22, 1992 - Fall V.49 N.4 pp. 1455-1499 The author argues that the dispute resolution provisions of the United States-Canada Free Trade Agreement violate the constitutional protection of separation of powers found in Article III and

the Appointments Clause. ARB: BINDING ARB- GENERAL/ ARB:
OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:
TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB:
JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ
MATTER: INT'L/ SUBJ MATTER: REGULATORY/ 3RD PARTY:
SELECTION/ REQUIREMENTS: CONTRACTUAL CLAUSES/
REQUIREMENTS: STATUTORY OR RULES

Chicoine, Jeffrey P. "Business necessity as a defense to an employer's breach of its bargaining duty under the PECBA" (Seventh Biennial Review of Oregon Issues and Legislation) Willamette Law Review March 22, 1992 - Spring V.28 N.2 pp. 259-283 The author discusses current and past case law revealing the difficulty of establishing business necessity as a defense to the public employers duty to bargain in good faith both under Oregon's Public Employee Collective Bargaining Act and the National Labor Relations Act. After discussion of the case law, the author clearly states the general requirements to establish a valid business necessity defense as well as analyzing the duties of the parties before, during, and after bargaining. SUBJ MATTER: LABOR-GENERAL/
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF
SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS:
STATUTORY OR RULES/ LEGISLATION

Chicoine, Jeffrey P. "The business necessity defense to unilateral changes in working conditions under the duty to bargain in good faith" The Labor Lawyer March 22, 1992 - Spring V.8 N.2 pp. 297-312 In this article, the author examines conflicting case law to establish not only some of the conditions under which courts have allowed employers to unilaterally impose changes in employment because of business necessity, such as sudden changes in the market that threaten the continuing existence of the business, but also conditions found insufficient to establish a valid business necessity defense, such as the mere attempt to avoid financial obligations or the possibility of economic savings. INST NATURE:
PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
COMPARISONS: HISTORICAL

Childs, John Brown "Constructive disputing: the ramifications of African-American caucus groups for today's organizations" Studies in Law, Politics, and Society January, 1992 - Annual V.12 pp. 177-197 The author analyzes the significance of emerging black caucus groups within predominantly white organizations. The result is intra-organizational dispute which is necessary to achieve equality. / NEG: W/ OR W/O

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CULTURAL CONSIDERATIONS/ INST NATURE: RELIGIOUS
ORGANIZATIONS/ INST NATURE: SECULAR, PRIVATE, NON-
PROFIT/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ
MATTER: CIVIL RIGHTS/ SUBJ MATTER: COMMUNITY/ SUBJ
MATTER: PUBLIC POLICY/ FAIRNESS/ POWER IMBALANCE

Christopher, William L. "McCormick v. A T & T Technologies, Inc.
and section 301 preemption: the Fourth Circuit makes a federal case out of
workplace torts" (breach of collective bargaining agreement) (1992 Survey
of Developments in North Carolina Law) North Carolina Law Review
September, 1992 V.70 N.6 pp. 2073-2086 This article states that the
decision in McCormick preserves uniformity in federal labor law, but
carries the high price of foreclosing state granted rights to organized labor
thereby leaving unionized employees a nearly insurmountable task in
framing a negotiable tort claim. NEG: W/ OR W/O ASSIST OF 3D-
PARTY NEUTRAL- GENERAL/ SUBJ MATTER: LABOR-GENERAL/
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:
OTHER TORTS

Chukwumerije, Okezie "Is an arbitration award "made" where it is
signed?" Canadian Business Law Journal May, 1992 V.20 N.2 pp.
305-316 This article explains the importance of where foreign arbitral
awards are made in light of enforcement by the New York Convention.
ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND
ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L/
SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Ciucci, Joseph A. "Defining the permissible uses of objecting members'
agency dues: is the solution any clearer?" University of Detroit Mercy
Law Review September 22, 1992 - Fall V.70 N.1 pp. 89-124 The
author discussed court cases and prevailing attitudes towards the use of
union dues for activities to which some of the union members disagree,
such as the funding of political activities or PACs. ARB: BINDING
ARB- GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
ORGANIZATION POLICIES AND RULES

**Clark, Kenneth B.; Schrottenboer, Ronald B.; Fenwick, William A.;
Bergquist, Philip J.** "A different approach to resolving section 482
disputes" Tax Notes June 29, 1992 V.55 N.13 pp. 1813-1816
Discusses the efficiency of using ADR to handle high-tech cases under
section 482. Author uses Apple Computer as an example of a company

which has used arbitration for cases involving transfer pricing. ARB:
BINDING ARB- GENERAL/ SUBJ MATTER: TAX

Clement, Rutledge C., Jr. "Reform v. unredeeming rhetoric" Louisiana Bar Journal January 1992 V.39 N.4 pp. 306(3) This author, President of the Louisiana Bar, encourages the debate on legal reform inspired by Vice President Quayle's speech to the ABA. One area where reform can be assisted is through ADR programs because of their promptness, decreased costs, and ability to promote harmonious relationships. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION/ ROLE OF LAWYERS

Coffee, John C., Jr. "A watchdog for the guardians" (Corporate Law; What is the Impact of New ALI Proposals on Shareholder Litigation?) ABA Journal May, 1992 V.78 pp. 44(1) There are both pros and cons to the American Law Institute's proposed change in the rules of shareholder litigation that would require corporate boards to prove in court that the dismissal of a shareholder's claim is in the company's best interest. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: SECURITIES/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE

Cole, David A. "The arbitrator and the double jeopardy clause: does the postman always ring twice?" Journal of Dispute Resolution March 22, 1992 - Spring V.1992 N.1 pp.241-248 A discussion of Unites States v. Reed, a decision of the Eleventh Circuit Court of Appeals which held that an arbitrator's decision will implicate double jeopardy clause only if the sanction imposed serves a retributive or deterrent purpose, as well as a remedial one ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL/ JUDICIAL PARTICIPATION

Colosi, Thomas R. "Training East Europeans to develop ADR and negotiating techniques" (Arbitration in New Europe) Arbitration Journal September 1992 V.47 N.3 pp. 46(3) This article is about the experiences of the author in training Czechoslovakians in negotiation skills, including the need for cultural sensitivity and a good interpreter. NEG:

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CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/
COMPARISONS: CROSS-CULTURAL

Conley, Scott "Mediation: are the proceedings really confidential?"
Federation of Insurance & Corporate Counsel Quarterly September 22,
1992 - Fall V.43 N.1 pp. 37-43 This article discusses confidentiality as
a crucial feature of mediation, post-mediation efforts to avoid
confidentiality, and concludes that confidentiality agreements will generally
be upheld. MED: RELATED PROCESSES-GENERAL/ MED:
PRETRIAL CONF/ INST NATURE: GENERAL/ CONFIDENTIALITY

Cooper, Christine Godsil "Where are we going with Gilmer? - some
ruminations on the arbitration of discrimination claims" (Employment
Discrimination Symposium) Saint Louis University Public Law Review
March 22, 1992 - Spring V.11 N.1 pp. 203-242 This article criticizes
the U.S. Supreme Court's decision in Gilmer, and its effect, which
sharply limits access to the courts of victims of employment discrimination
who have signed agreements to arbitrate employment disputes. ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING
ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE:
PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CIVIL RIGHTS/
SUBJ MATTER: LABOR-DISCRIMINATION

Corcoran, John F. "The arbitrability of labor grievances that arise after
expiration of the collective bargaining agreement" Syracuse Law Review
September 22, 1992 V.43 N.3 pp. 1073-1093 The article discusses the
Supreme Court's decision in Litton Financial Printing Division v. NLRB.
In Litton, the Supreme Court abandoned the presumption that grievances
filed after the expiration of the collective bargaining agreement should be
arbitrated. The author contends that arbitration is a better method for
resolving labor disputes and that as a result of the decision courts will be
burdened with determining whether "post-expiration" grievances should be
resolved by arbitration. INST NATURE: JUSTICE SYSTEM-
GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC
POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/
ECONOMIC ADVANTAGES OF ADR

Cormick, Gerald W. "Environmental conflict, community mobilization,
and the 'public good': linkages and contradictions" Studies in Law,
Politics, and Society January, 1992 - Annual V.12 pp. 309-329 This
article concludes that environmental disputes are unlikely to be effective

vehicles for community empowerment and may even work to further disempower local minority communities and/or communities of lower socio-economic standing. NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: CULTURAL CONSIDERATIONS

Corne, Peter H. "The complex art of negotiation between different cultures" Arbitration Journal December, 1992 V.47 N.4 pp. 46-50 This article discusses negotiating with Japanese companies. It focuses on the goals and objectives that Japanese businesses have as opposed to American. Additionally, the mental frame of mind necessary to deal with the negotiations is examined. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Correa, S. Jorge "Dealing with past human rights violations: the Chilean case after dictatorship" (includes discussion) (Symposium: Theories of Dispute Resolution) Notre Dame Law Review July, 1992 V.67 N.5 pp. 1455-1494 The article discusses the resolution of past human rights violations using the Chilean case as a prime example. The author shows how Chile has emerged from dictatorship and is beginning to cope with its past violations of its citizens. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ DISPUTE NEG. v. DEAL MAKING/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Costantino, Cathy A. "FDIC uses spectrum of ADR options to resolve disputes; finding new ways to decrease costs, speed resolutions, and maximize recoveries" Federal Bar News & Journal October, 1992 V.39 N.9 pp. 524-527 This article shows how ADR options have helped the FDIC carry out its mandate to manage financial institution failures by speeding resolutions, maximizing recoveries and controlling costs. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ MED: RELATED PROCESSES- GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-

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BINDING ARB/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:
GOV'T/ SELECTION OF APPROPRIATE PROCESS

D'Alemberte, Talbot "Justice for All; A Response to the Vice President"
Trial May, 1992 V.28 N.5 pp. 55(4) President of the ABA, Sandy
D'Alemberte, speaks out against Vice President Quayle's hostility towards
lawyers and explains how American lawyers are not the primary causes of
the justice system failures. This article also discusses the increased use of
ADR and lawyer's willingness to participate. MED: RELATED
PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM-
GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:
PUBLIC POLICY/ SUBJ MATTER: REGULATORY/ ECONOMIC
ADVANTAGES OF ADR

Dade, Jay M. "Negotiating in good faith: management's obligation to
maintain the status quo during collective bargaining under the Railway
Labor Act" Journal of Dispute Resolution September 22, 1992 - Fall
V.1992 N.2 pp. 395-410 This note discusses court decisions barring
management from making unilateral working condition changes leaving
unions with one less reason to counteract with self-help measures which
would only result in interruptions to interstate commerce. NEG: W/ OR
W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR
W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/
MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-
GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ ETHICS:
GENERAL/ FAIRNESS

Daley, Henry W.K.; Keilitz, Susan "Court-based family mediation
programs" (Divorce and Court Caseloads) State Court Journal September
22, 1992 - Fall V.16 N.4 pp. 24(7) With the statistics on divorce ever
rising in this nation, even courts that have initiated some sort of mediation
or arbitration program already recognize the need to branch out to a wider
variety of arbitration techniques to handle the large caseloads. MED:
RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING
GUIDELINES/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY
(DOMESTIC REL)/ REQUIREMENTS: STATUTORY OR RULES/
COURT REFORM

Darmosch, Lori Fisler "GATT membership in a changing world order:
Taiwan, China, and the former Soviet republics" (Forum: Taiwan and the

GATT) Columbia Business Law Review January, 1992 - Winter V.1992 N.1 pp. 19-38 The article focuses on the difficulties that have arisen in trying to include the People's Republic of China as a party to the GATT negotiation. The problems have arisen because China has not been active in the GATT process for forty years, and because Taiwan also wants to be included as a party to the negotiations.

Dauer, Edward A.; McNeill, Cynthia "New rules on ADR: professional ethics, shotguns and fish" (Colorado) Colorado Lawyer September, 1992 V.21 N.9 pp. 1877(5) This article discusses Colorado's implementation of model rule 2.1 of the Model Rules of Professional Conduct which dictates that attorneys are obligated to inform their clients of ADR options.

MED: PUBLIC POLICY DIALOGUE/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE/ ROLE OF LAWYERS

Davenport, Howard C.; Murphy, Brian J. "Energy conservation is a four-way street" (Washington, D.C. used as an example of cooperation between utilities, consumers, advocates and regulators on energy conservation) Public Utilities Fortnightly Decemeber 1, 1992 V.130 N.11 pp. 22(3) The use of mediation and arbitration in energy conservation disputes, rather than traditional adversarial litigation, has been one element of the cooperation between the utility, the regulators, the consumer, and consumer advocacy groups; and such cooperation has led to improved service for residents in the Washington, D.C. area. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: PUBLIC UTILITIES

Davenport, Philip "Dangers of a defective Calderbank offer" (compromise offer) (New South Wales) Law Society Journal September, 1992 V.30 N.8 pp. 30(2) The article discusses the process dangers of submitting an improper offer during the arbitration of bank disputes. The author emphasizes the need for arbitrators to use their discretionary judgment and experience to determine the validity of these offers. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ SUBJ MATTER: INT'L/ 3RD PARTY: SELECTION

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Davey, William J. "The appointments clause and international dispute settlement mechanisms: a false conflict" (response to article by Alan B. Morrison in this issue, p. 1299) (*Environmental Quality and Free Trade: Interdependent Goals or Irreconcilable Conflict?*) Washington and Lee Law Review September 22, 1992 - Fall V.49 N.4 pp. 1315-1328 The author criticizes the view that the dispute resolution provisions in the United States-Canada Free Trade Agreement violate the appointments clause of the Constitution, and state that the connection of the provisions to foreign affairs should satisfy constitutional concerns of the separation of powers issue. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ 3RD PARTY: SELECTION/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES

Davidson, Fraser "International commercial arbitration in Scotland" Lloyds Maritime and Commercial Law Quarterly August, 1992 N.3 pp. 376-394 This article assesses the validity of the view that Scotland has little to offer as a forum for international arbitration notwithstanding the adoption of the UNCITRAL Model Law on International Arbitration. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ LEGISLATION/ ORGANIZATION POLICIES AND RULES

Davidson, Fraser "Law and Practice of International Commercial Arbitration, 2d ed." (book review) Lloyds Maritime and Commercial Law Quarterly May, 1992 N.2 pp. 269-270 Article briefly reviews Alan Redfern's 2nd edition of Law and Practice of International Commercial Arbitration. Short summary of the book's highlights and changes is included. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Davies, Robin "Cambodia and the GATT" Journal of World Trade (Law-Economics-Public Policy) October, 1992 V.26 N.5 pp. 93-98 This article explains the advantages to Cambodia in joining GATT, especially because the access membership will provide to the organization's multilateral negotiating role. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: INT'L/ ECONOMIC ADVANTAGES OF ADR

DeBenedictis, Don J. "An experiment in reform; like snowflakes, no two plans for reducing civil delays are alike" ABA Journal August, 1992 V.78 pp. 16(2) Discusses varying ADR techniques being implemented by district courts to expedite the civil trial process. Different districts are implementing selected process and reports comparing the results will be completed when experiments are completed. INST NATURE: GENERAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM/ RELATION TO ONGOING LITIGATION/ SELECTION OF APPROPRIATE PROCESS

Delaume, Georges R. "How to draft an ICSID arbitration clause" ICSID REVIEW - Foreign Investment Law Journal March 22, 1992 - Spring V.7 N.1 pp. 168-95 This article informs the reader how to draft an International Convention on Settlement of Investment Disputes arbitration clause, while taking the position that it is similar to other arbitral compacts and pointing out difficulties that may arise. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

Delaume, Georges R. "France - recognition of ICSID awards - sovereign immunity" American Journal of International Law January, 1992 V.86 N.1 pp. 138-142 Under the International Convention on the Settlement of Investment Disputes, each state to the Convention is mandated to recognize an ICSID award as binding notwithstanding domestic legislation. This article discusses a case involving a state and a national of another state that were parties to this Convention, and upheld the proposition that a party to the Convention could not raise an immunity defense to jurisdiction. SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: SECURITIES/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Denenberg, Tia Schneider "Fairweather's Practice and Procedure in Labor Arbitration, 3d ed." Industrial and Labor Relations Review April, 1992 V.45 N.3 pp. 607-09 Author's review of Fairweather's manual is generally positive in that she sees the manual as the foremost authority on how to conduct arbitration, but she also believes that the work's emphasis on procedure detracts from the informal nature of ADR. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ /

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ARB: SERVING AS ARBITRATOR/ TYPE OF SOURCE: BOOK
REVIEW/ ORGANIZATION POLICIES AND RULES

Deshpande, V.S. "Foreign Award" in the 1958 New York Convention" Journal of International Arbitration December, 1992 V.9 N.4 pp. 51-6
This article examines the definition of "foreign award" in the 1958 New York Convention to determine whether arbitration awards are properly characterized as "foreign" when arbitration is governed by the laws of one state, but takes place within another state. The author also analyzes the authority of various courts to set aside foreign arbitration awards. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Diaconis, John S. "Corcoran v. Ardra: The impact of insolvency on international reinsurance arbitration" (New York) Tort & Insurance Law Journal September 22, 1992 - Fall V.28 N.1 pp. 109-35 The author discusses the New York Court of Appeals decision of Corcoran v. Ardra Insurance Co., Ltd., 566 N.Y.S. 2d 575 (Ct.App. 1990) and suggests possible effects of that decision on international reinsurance arbitration. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Dick, Andrew "Court-ordered arbitration" (Minnesota) Bench & Bar of Minnesota November, 1992 V.49 N.10 pp. 27(3) This article offers basic practical advice and direction for Minnesota attorneys who become involved in court-ordered arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ INST NATURE: JUSTICE SYSTEM- GENERAL/ ROLE OF LAWYERS

Dieffenbach, John J. "Psychology, society and the development of the adversarial posture" Ohio State Journal on Dispute Resolution March 22, 1992 - Spring V.7 N.2 pp. 261-86 The article explores how the competitive nature of American children offers insight as to settlement of legal disputes in their society. Litigators, like the children subjects of certain experiments, may be looking for a victory instead of a solution. SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/

**ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS/
TEACHING**

Dienelt, John F.; Pinn, Jerome D. "State efforts to limit arbitration" Franchise Law Journal March 22, 1992 V.11 N.4 pp. 104(3) This article describes various unsuccessful state attempts to limit the use of arbitration in franchise agreements due to the strong federal policy favoring arbitration and the Federal Arbitration Act. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ LEGISLATION

Doelle, Meinhard "Regulating the environment by mediation and contract negotiation: a case study of the Dona Lake Agreement" (Canada) Journal of Environmental Law and Practice February, 1992 V.2 N.2 pp. 189-213 A study using the mediation process to negotiate a contract between native leaders in Northern Ontario, the federal government, the government of the province of Ontario and the proponent of an Ontario gold mine to agree on a scheme of environmental regulation. MED: RELATED PROCESSES-GENERAL/ MED: NEGOTIATED RULE-MAKING/ MED: OBTAINING AGREEMENT TO USE/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Dolan, John F. "The correspondence bank in the letter-of-credit transaction" Banking Law Journal September, 1992 V.109 N.5 pp. 396-435 This article discusses the advantages a correspondent bank can obtain in international letters-of-credit transactions and identify the four major potential problems that exist for a correspondent bank. SUBJ MATTER: COMMERCIAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT'L/ SELECTION OF APPROPRIATE PROCESS

Domenici, Pete V. "Yes: a prime factor" (Health Care Reform: Should Curbing Medical Malpractice Litigation Be Part of the Solution?) ABA Journal August, 1992 V.78 pp. 42(1) The author, a Republican U.S. Senator, argues that comprehensive medical malpractice reform, including mandated arbitration, is essential to the success of any proposed health-care reform, as malpractice abuse currently imposes a tremendous cost on the health care system. ARB: MANDATORY, COURT-ANNEXED-

GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: OTHER PROF MALPRACTICE/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ SETTLEMENT: AUTHORITY

Donahey, M. Scott "The independence and neutrality of arbitrators" Journal of International Arbitration December, 1992 V.9 N.4 pp. 31-42 Article discusses party-appointed arbitrators in international commercial arbitration and the rules regarding the independence and neutrality of those arbitrators. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE

Donweber, Stephen "Labor law- the current scope of Weingarten rights in the Third Circuit" (Third Circuit Review) Villanova Law Review September, 1992 V.37 N.4 pp. 1139-1150 This article reviews the Third Circuit's ruling in NLRB v. New Jersey Bell Telephone Co., and explains the scope of an employee's Weingarten rights in the Third Circuit. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Doty, David S. "The impact of federal labor policy on the Americans with Disabilities Act of 1990: collective bargaining agreements in a new era of civil rights" Brigham Young University Law Review September 22, 1992 V.1992 N.4 pp. 1055-1089 This article discusses the Americans with Disabilities Act and argues that while the act conflicts with other collective bargaining legislation, both are necessary to protect the civil rights of the disabled. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Downing, Richard D. "The continuing power of cultural tradition and socialist ideology: cross-cultural negotiations involving Chinese, Korean, and American negotiators" Journal of Dispute Resolution March 22, 1992 V.1992 N.1 pp. 105-132 This comment analyzes how cultural tradition and political ideology affect international negotiating style, how culture and ideology create difficulties in negotiations between the U.S. and China and Korea, and how these difficulties might be alleviated.

**NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
COMPARISONS: HISTORICAL/ INST NATURE: GOV'T ENTITIES/
SUBJ MATTER: INT'L**

Dryer, Randy L. "Utah's legal flashpoints of the 90's - ADR, legal services to the poor, increasing attorney population and the unethical lawyer" Utah Bar Journal October, 1992 V.5 N.9 pp. 4(3) The President of the Utah Bar opines that the problems facing the legal community in Utah, while not as severe as those in some other states, point to ADR as the "wave of the future" given skyrocketing litigation costs, and client and legislative pressures to de-emphasize the adversarial method of dispute resolution. **ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS**

Duck-Soon Chang "Arbitration in Korea" (actions of the Korean Commercial Arbitration Board under the Korea Arbitration Act) East Asian Executive Reports January 15, 1992 V.14 N.1 pp. 21(2) This article summarizes the arbitration of commercial disputes under the Korean Arbitration Act. **ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L**

Dunford, Franklyn W. "The measurement of recidivism in cases of spouse assault" (Omaha, Nebraska) (Symposium on Domestic Violence) Journal of Criminal Law and Criminology March 22, 1992 - Spring V.83 N.1 pp. 120-136 The article is based on an experiment to determine which response was most likely to deter family violence: arrest, separation, or mediation. **MED: RELATED PROCESSES- GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT**

Durgavich, Michael "Resolving disputes arising out of the Persian Gulf War: independent enforceability of international agreements to arbitrate" California Western International Law Journal March 22, 1992 - Spring V.22 N.2 pp. 389-428 Author comments that claims against Iraq

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stemming from the Gulf War could be effectively settled through arbitration similar to that used during the Iran-US claims tribunal. Foreseeable problems include forum selection and funding. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE

Eaton, Adrienne E.; Gordon, Michael E.; Keefe, Jeffrey H. "The impact of quality of work life programs and grievance system effectiveness on union commitment" Industrial and Labor Relations Review April, 1992 V.45 N.3 pp. 591-604 The author's survey found that unionized employees who participated in labor-management "quality of work life" programs were more loyal to the union than other workers, and were less likely to view the programs as a threat to the union's autonomy. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ AGREEMENT ON PROCEDURE/ ORGANIZATION POLICIES AND RULES/ POWER IMBALANCE

Edwards, Susan "Making Amends: Mediation and Reparation in Criminal Justice" (book review) New Law Journal July 24, 1992 V.142 N.6562 pp. 1049(1) The author describes the newly developed reparation process and focuses in on situations in which it should not be used because of party inequalities. MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: COMMUNITY/ AGREEMENT ON PROCEDURE/ POWER IMBALANCE

Eiberger, Carl "Court review of arbitration: some practical observations" (Industrial Relations Research Association: Proceedings of the 1992 Spring Meeting) Labor Law Journal August, 1992 V.43 N.8 pp. 549-551 Discusses cases dealing with the issue of when an arbitration award should be overturned and lists several factors that aid in making decisions. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Elwork, Amiram "Psycholegal treatment and intervention; the next challenge" Law and Human Behavior April, 1992 V.16 N.2 pp. 175-183 This article describes the treatment and intervention programs that have emerged as a result of the integration of psychology and the law, and

presents a conceptual model for future psycholegal intervention. NEG: PSYCH CONSIDERATIONS/ MED: COUNSELING// MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ DISPUTE PREVENTION

Engels, Chris "Who is who in the Eastern Europe industrial relations landscape: identifying proper collective bargaining partners in reforming socialist systems through the application of ILO Convention Nos. 87 and 98" Comparative Labor Law Journal January, 1992 - Winter V.13 N.2 pp. 167-183 This article studies International Labour Organization Convention No. 87, concerning freedom of association and protection of the right to organize, and No. 98, concerning the right to organize and to bargain collectively, as they apply to industrial relations in reforming Eastern European countries. NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ COMPARISONS: CROSS-CULTURAL/ LEGISLATION

Engholm, Christopher "Asian bargaining tactics: counterstrategies for survival" (part 2) (excerpt from 'When Business East Meets Business West: The Guide to Practice and Protocol in the Pacific Rim') East Asian Executive Reports August 15, 1992 V.14 N.8 pp. 10(4) In order to negotiate or participate in business dealings effectively and successfully, business people from the Western world must recognize and be prepared to handle the unique bargaining tactics and strategies inherent in Eastern world's business. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L/ DISPUTE NEG. v. DEAL MAKING

Erikson, Stephen K. "A cooperative vs. competitive approach to conflict resolution" American Journal of Family Law September 22, 1992 - Fall V.6 N.3 pp. 173-183 This article discusses the benefits of cooperative conflict resolution and explains techniques to move parties from competition toward cooperation. NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ COMPLIANCE ISSUES/ FAIRNESS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ

Estes, R. Wayne; Mills, Robert J. "Judge Reinhardt's primer on labor arbitration: Stead Motors and public policy judicial review" Labor Law Journal April, 1992 V.43 N.4 pp. 229-238 The article presents a

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thorough analysis of the *Stead Motors v. Automotive Machinists Lodge No. 1173* opinion, which discusses the subject of labor arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Evans, Richard "Mediation survives its baptism of fire" (as part of the Victorian Supreme Court) Law Institute Journal December, 1992 V.66 N.12 p. 1073 The Victoria Supreme Court referred mediation program earned kudos after over half of the 200 cases referred to it were settled without going to trial. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR

Faurot, David J.; McAllister, Stephen "Salary arbitration and pre-arbitration negotiation in major league baseball" (Studies of Grievance and Arbitration Processes) Industrial and Labor Relations Review July, 1992 V.45 N.4 pp. 697-710 An examination of the factors that surround negotiation and arbitration of Major League Baseball contracts. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: USE OF AGENTS/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: SCIENCE & TECHNOLOGY

Feldman, Steven W. "Agency evaluators in negotiated acquisitions" Public Contract Law Journal January, 1992 - Winter V.21 N.2 pp. 279-293 The article discusses the use of agency evaluators who advise the selected official in some negotiated acquisitions. The author recommends that agencies who use the evaluators should receive greater administrative and judicial scrutiny. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: REGULATORY

Feller, David E. "Court review of arbitration" (Industrial Relations Research Association: Proceedings of the 1992 Spring Meeting) Labor Law Journal August, 1992 V.43 N.8 pp. 539-546 Discusses cases illustrating review of arbitral decisions by judiciary. Review conflicts with

arbitrations goal in that decision-making process is delayed and final resolution is not obtained through arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY

Felstiner, William L.F.; Sarat, Austin "Enactments of power: negotiating reality and responsibility in lawyer-client interactions" (Speeches from the Emperor's Old Prose: Reexamining the Language of Law) Cornell Law Review September, 1992 V.77 N.6 pp. 1447-1498 The article discusses the implied negotiations that occur between lawyers and their clients. Using a case study, the author emphasizes the unique characteristics which exist between a lawyer and her client during a divorce case, and how they require a more flexible process of negotiation.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: PRESSURES TO SETTLE/ RELATION TO ONGOING LITIGATION/ ROLE OF LAWYERS

Field, Thomas G., Jr.; Rose, Michael "Prospects for ADR in patent disputes; and empirical assessment of attorneys' attitudes" Idea September 22, 1992 - Spring V.32 N.4 pp. 309-325 This article analyzes the survey of a group of patent attorneys to determine the extent they were using ADR in intellectual property disputes and found that the use of mediation has increased drastically over the last 10 years. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS

Finkelstein, Linda; Stanley, Nancy "The federal angle" The Washington Lawyer May, 1992 V.6 N.5 The U.S. District Court's alternative dispute resolution program continues to please its creators with a settlement rate for mediation at 55 percent. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST

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NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ TYPE OF
SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM

Fisher, Roger "Coping with conflict: What kind of theory might help? (includes discussion) (Symposium: Theories of Dispute Resolution) Notre Dame Law Review July, 1992 V.67 N.5 pp. 1335-1364 The author explores various methods of conflict management in order to provide models of coping with conflict. The article further provides a framework of case studies that manage conflict through negotiation and compromise.
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:
GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/
OMBUDSPERSON/ QUALITY CONTROL

Fisher, Thelma "The organization and funding of mediation; the experience and views of the National Family Conciliation Council" (Great Britain) Family Law January, 1992 V.22 pp. 7-9 Article deals with Great Britain's use of mediation in resolving disputes. It does raise the problem of insufficient funding for "legal aid" mediation but the author concludes that if the government will address this issue, the funding is available. MED: RELATED PROCESSES-GENERAL/ MED:
PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY
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Fitch, Sharon D. "Dispute settlement under the North American Free Trade Agreement: will the political, cultural and legal differences between the United States and Mexico inhibit the establishment of fair dispute settlement procedures?" California Western International Law Journal March 22, 1992 V.22 N.2 pp. 353-388 This article explores the emergence of the North American Free Trade Agreement and how it might be helped by the inclusion of effective dispute resolution procedures.
ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND
ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF
ARBITRATOR/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/
SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/
COMPARISONS: CROSS-CULTURAL

Fitzgerald, Maureen F. "Arbitration is okay" Labor Law Journal October, 1992 V.43 N.10 pp. 623-638 Author examines the basic premises of arbitration, the role of the participants, the criticisms against arbitration, and concludes that with some changes, arbitration can remain an effective way to resolve labor disputes in an expeditious manner.
ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:

SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Flemming, Roy B. "Let's Make a Deal: Understanding the Negotiation Process in Ordinary Litigation" (book review) Law & Society Review August, 1992 V.26 N.3 pp. 669-687 This book articulates how ordinary civil cases are negotiated and then addresses how well the literature on game theory, economic models of bargaining, and the sociology of negotiations applies to these settlements. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: CULTURAL CONSIDERATIONS/ SELECTION OF APPROPRIATE PROCESS

Folberg, Jay; Rosenberg, Joshua; Barrett, Robert "Use of ADR in California courts: findings and proposals" (Symposium: Civil Litigation in the 1980s) University of San Francisco Law Review January, 1992 V.26 N.3 pp. 343-443 This article is an adaptation of a report prepared by the authors in 1991 which gathered information about ADR programs in California, made recommendations to foster greater use of ADR, proposed criteria and procedures courts might use in referring cases to ADR, and how trial courts might jointly use ADR. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Footer, Mary E. "International Commercial Arbitration: The Protection of State Contracts" (book review) International and Comparative Law Quarterly January, 1992 V.41 N.1 pp. 227(1) This article is a review of the book by M. Sornarajah. The book discusses the role which international commercial arbitration plays in settling foreign investment disputes from the perspective of developing countries. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

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Forbes, William O'Malley "Rules of Ethics for arbitrators and their application" Journal of International Arbitration September 22, 1992 V.9 N.3 pp. 5-26 Discussion of the rules of ethics for arbitrators and discussion of some technical problems that arise in arbitration. ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ETHICS: GENERAL

Forester, John "Envisioning the politics of public-sector dispute resolution" Studies in Law, Policitics, and Society January, 1992 - Annual V.12 pp. 247-286 The article explores the politics of public-sector mediation and mediation-backing; rather than acting like judges, mediators should serve as knowledgeable friends of the disputant parties. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PSYCH FACTORS

Forrester, David "Dispute Resolution in Australia" (book review) University of Western Australia Law Review December, 1992 V.22 N.2 pp. 447-449 This book review discusses methods of ADR in Australia. It covers a wide range of ADR processes. The book is criticized because it is so "comprehensive" and it is written in a scholarly style, which makes it hard to read. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: GENERAL/ INST NATURE: GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Frankel, Barbara Kamenir "The impact of the Americans with Disabilities Act of 1990 on collective bargaining agreements" Southwestern University Law Review September 22, 1992 - Fall V.22 N.1 pp. 257-284 This Comment discusses the Americans with Disabilities Act of 1990 and specifically examines the statutory terms "qualified individual with a disability," "reasonable accomodation," and "undue hardship" as they interrelate with an employer's responsibilities under a collective bargaining agreement and the ADA. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Frantz, Robert W. "Superfund settlements: a vanishing breed" (Superfund: Waste or Waste Cleanup?) Natural Resources and Environment January, 1992 - Winter V.6 N.3 p. 14(6) This article discusses new model decrees which govern the responsibilities of the

parties during Superfund settlements. The author examines key provisions, notes how the open-ended, one-sided provisions inure to the benefit of the EPA, and suggests a basic approach to dealing with the EPA under these provisions. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: STATUTORY OR RULES/ FAIRNESS/ ORGANIZATION POLICIES AND RULES/ POWER IMBALANCE

Fredlund, April A. "Just, speedy, and inexpensive or just speedy and inexpensive? Mandatory alternative dispute resolution in the western district of Missouri" Journal of Dispute Resolution March 22, 1992 - Spring V.1992 N.1 pp. 133-157 The article discusses mandatory ADR which has been implemented in the western district of Missouri. Specifically, the author agrees that ADR may be efficient and cost effective. However, the author questions the ability of ADR to reach a desirable degree of justice. MED: OPENING AND SETTING GUIDELINES/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ COURT REFORM/ QUALITY CONTROL

Freyre, Pedro A. "Environmental law - Mexico and beyond" (Proceedings of the Fifth Annual Seminar on Legal Aspects of Doing Business in Latin America: Free Trade -the Door Opens) Florida Journal of International Law March 22, 1992 - Spring V.7 N.1 pp. 87-92 Author contends that as Mexico attempts to modernize and pursue the North American Free Trade Agreement (NAFTA) negotiations with the United States, stricter enforcement of environmental regulations will require American businesses to comply with Mexico's General Law of Ecological Equilibrium and Environmental Protection. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ ARB: CLIENT REP/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

Friedheim, Robert L. "Fishing negotiations at the Third World United Nations Conference on the Law of the Sea" Ocean Development and

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International Law January, 1992 V.22 N.3 pp. 209-257 The article describes the issues that states had to address when meeting at UNCLOS III. In the author's opinion, the negotiations package describing the 200 mile exclusive economic zone and its effect on the fishing industry was a success. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L/ FAIRNESS

Frierson, James G. "An employer's dilemma: the ADA's provisions on reasonable accommodation and confidentiality" Labor Law Journal May, 1992 V.43 N.5 pp. 308-312 This article addresses the Americans with Disabilities Act of 1990 (ADA) provisions that employers make reasonable accommodations for employee disabilities and the confidentiality of such disabilities; how these two provisions put employers in a position of conflict. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ CONFIDENTIALITY

Fuchsberg, Abraham "The arbitrariness of arbitrators: anything goes" Trial Lawyers Quarterly June 22, 1992 V.22 N.4 pp. 8-10 This article criticizes the American system of arbitration in which an arbitrator is vested with almost absolute powers to ignore the explicit terms of the agreement including contractual limitations as to the amount of damages that can be awarded. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ LEGISLATION

Funderburg, J. Noah "Civil court mediation rules" The Alabama Lawyer July, 1992 V.53 N.4 p. 250 The Alabama civil mediation rules are examined. The article explains both the application and construction of the rules in a practical setting. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM-SMALL CLAIMS COURTS/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT

Galanter, Marc; Lande, John "Private courts and public authority" Studies in Law, Politics, and Society January, 1992 V.12 pp. 393-415 This article deals with the usage of "private courts" in dispute resolution. A private court may be related to public courts such as when a judge orders mandatory court annexed arbitration or it may be an "embedded tribunal" which is when an organization uses a tribunal it established as its own regulatory apparatus. The authors find there are advantages to using private courts (time, money) but they conclude that in order for private courts to succeed there must be a method to ensure that public values and norms are maintained in private courts. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PRIVATE JUDGING/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ SUBJ MATTER: PUBLIC POLICY/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL

Gamble, Julie R. "1992 Conference on ADR in Tennessee; an enhancement of the legal system" Tennessee Bar Journal March, 1992 V.28 N.2 p. 25 This article looks at the success of Tennessee 1992 ADR conference and highlights some of the reasons for success such as the cooperation between the bench and the bar and pilot programs. The author believes ADR should not be viewed as an alternative to the legal system, but as an enhancer. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ ROLE OF LAWYERS

Garaffa, John V. "AIDS: the arbitrator's role in the post-panic period" Ohio State Journal on Dispute Resolution March 22, 1992 V.7 N.2 pp. 217-259 The article proposes that arbitrators maintain the same rules and procedure in AIDS discrimination cases that they would in non-AIDS cases. Argument based on medical information regarding the HIV virus and public policy. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SELECTION OF APPROPRIATE PROCESS

Garth, Bryant G. "Privatization and the new market for disputes: a framework for analysis and a preliminary assessment" Studies in Law, Politics, and Society January, 1992 V.12 pp. 367-391 In analyzing any alternative dispute resolution mechanism, one must compare that mechanism with traditional litigation on the basis of costs, finality of award and personal involvement, among other factors. The author looks

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at the "private" system and determines that although it is effective, there are some detrimental qualities. INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ FAIRNESS

Gartner, Gary J. "Canada - United States treaty re-negotiations postponed" (Canada-U.S. Income Tax Convention) Tax Management International Journal February 14, 1992 V.21 N.2 pp. 91-92 The article discusses the negotiations between the United States and Canada in reaching an agreement on the tax implications of treaties between the two countries. Specifically, the countries' different views on tax policy and procedure have made negotiations difficult. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: RENTAL HOUSING

Gee, Irene "The mediation process" Family Law March, 1992 V.22 pp. 91-92 Author discusses the mediation process used at the institute of family therapy. She outlines eleven techniques used by the institute which helps to implement their goal of offering clients a safe place to discuss their disagreements. MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ MED: OPENING AND SETTING GUIDELINES/ SUBJ MATTER: FAMILY (DOMESTIC REL)

Geigerman, Michael S. "A practical guide to mediation" Journal of the Missouri Bar September, 1992 V.48 N.6 p. 460 This article examines the selection, preparation and presentation process in a typical mediation session in Missouri. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OPENING AND SETTING GUIDELINES/ SUBJ MATTER: GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS

Gerlis, Stephen; Rose, Gerald "Financial in-court conciliation - an update" Family Law July, 1992 V.22 pp. 280-283 This article suggests that financial in-court conciliation in divorce settlements should take place at the earliest possible moment in order to minimize expense and anxiety, even as early as before general discovery. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: TIMING/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: PUBLIC POLICY

Gibbard, Frank; Hartmeister, Fred "Mediation and Wyoming domestic relations cases- practical considerations, ethical concerns and proposed standards of practice" Land and Water Review June 22, 1992 - Summer V.27 N.2 pp. 435-469 Article offers detailed description of the domestic relations mediation process in the state of Wyoming. Authors discuss the potential ethics conflicts posed by mediation of domestic disputes. Authors also identify standards of practice attorney-mediators should adopt in the mediation of domestic relations

Gibson, Kevin "Confidentiality in mediation: a moral reassessment" Journal of Dispute Resolution March 22, 1992 - Spring V.1992 N.1 pp. 25-66 This article questions the value of strict mediator confidentiality and proposes that there be a mechanism which would serve as a check for situations where confidentiality is not in the parties best interest MED: NEGOTIATED RULE-MAKING/ MED: PUBLIC POLICY DIALOGUE/ MED: OBTAINING AGREEMENT TO USE/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: LABOR-GENERAL/ CONFIDENTIALITY/ ETHICS: GENERAL

Gilmour, Allan D. "Union-management cooperation" (Industrial Relations Research Association: Proceedings of the 1992 Spring Meeting) Labor Law Journal August, 1992 V.43 N.8 pp. 513-517 An outline of the workings of the collective bargaining forum. The forum is dedicated to improving labor-management relations by improving communications and allowing greater employee participation/responsibility in the decision making process. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Ginzburg, Ezra "An analysis of Article XIX: the safeguard problem after the Uruguay Round" (International Trade at a Crossroads: The role of International Law and International Institutions in the Post Uruguay Round Era) Nebraska Law Review March 22, 1992 V.71 N.2 pp. 556-580 Focusing on the Uruguay Round and its legal ramifications in this subject area, the author discusses the weakening of the GATT (General Agreement on Tariffs and Trade), in part due to the broad use of "safeguard measures" under Article XIX of the GATT, and offers some solutions to strengthen the GATT in the future. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER:

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REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ CONFERENCE PROCEEDINGS/ LEGISLATION

Giuliani, Mark R. "Anti-union I presume? How the hiring of strike replacements affects an employer's duty to bargain in good faith" Bridgeport Law review March 22, 1992 - Spring V.12 N.3 pp. 871-908 The article gives an overview of the history of labor relations as the context for a discussion of the United States Supreme Court decision of *NLRB v. Curtin Matheson*, where the Court held that an employer may not presume anti-union sentiment from strike replacement employees in demonstrating a "good faith doubt" as to majority support of a union. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON PROCEDURE/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Glassman, Eric J. "The function of mediation in China: examining the impact of regulations governing the People's Mediation Committees" UCLA Pacific Basin Law Journal March 22, 1992 - Spring V.10 N.2 pp. 460-488 The author claims that the new set of rules governing the People's republic of China Mediation Committees effectively legalizes the time-honored practice of mediation in China so that it may serve as a control mechanism able to provide citizens with a sense of empowerment and foster stability. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY

Goldberg, Marion Zenn "Divorce mediation: panacea or just another tool?" Trial August, 1992 V.28 N.9 pp. 12(3) This article gives a very general national report of possible benefits and problems arising from the use of mediation to resolve divorce conflicts, including issues such as court-based programs, private attorney involvement, and power imbalances between parties. NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ MED: IND ATTY REVIEW/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC

**REL)/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: TRAINING/
REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS:
STATUTORY OR RULES/ POWER IMBALANCE/ ROLE OF
LAWYERS**

**Goodman, Samuel J. "Matrimonial arbitration" Res Gestae March,
1992 V.35 N.9 pp. 428(2) The author explains how arbitration works
and the advantages it offers to parties of a divorce proceeding. INST
NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER:
FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES OF ADR/
EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES**

**Gordon, Paul "Submitting "fair value" to final offer arbitration"
University of Colorado Law Review June 22, 1992 - Summer V.63 N.3
pp. 751-781 The author advocates using final offer or last best offer
arbitration procedures in appraisal hearings. The author claims that
adoption of his new procedure would lessen the burden on courts and
improve the fairness of results.**

**Gorman, Francis J. "Maryland's International Commercial Arbitration
Act:" business opportunities The Maryland Bar Journal September, 1992
V.25 N.5 pp. 24-28 This article supports the enactment of the Maryland
International Commercial Arbitration Act which precludes the application
of state law to international commercial arbitrations within the state,
making federal law the sole applicable body of law. ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING
AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER:
COMMUNITY/ SUBJ MATTER: INT'L/ LEGISLATION**

**Gorman, Francis J. "Maryland's International Commerical Arbitration
Act: business opportunities" The Maryland Bar Journal September, 1992
V.25 N.5 pp. 24-28 This article examines the newly enacted Maryland
International Commerical Arbitration Act which, uniquely in the United
States, precludes state law and makes federal law the sole applicable body
of law in order to make Maryland a more attractive site for international
business. ARB: MANDATORY, COURT-ANNEXED- GENERAL/
SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: STATUTORY
OR RULES/ ECONOMIC ADVANTAGES OF ADR**

**Gorske, Robert H. "Why mini-trials work" (alternative dispute
resolution) Corporate Counsel's Quarterly April, 1992 V.8 N.2 pp.
28-32 This article defines mini-trials, discusses why settling business legal
disputes is difficult, and why mini-trials often work in this context.**

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Gould, William B., IV "The employment relationship under siege: a look at recent developments and suggestions for change" (Labor Law Symposium) Stetson Law Review September 22, 1992 - Fall V.22 N.1 pp. 15-25 The author discusses several reasons for the changing employer-employee relationship and generally concludes that arbitration and other forms of dispute resolution need to be utilized to promote relationships based on more equal bargaining strength in order to protect job security. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ POWER IMBALANCE

Graham, Marty "San Jose on deck in baseball talks" (proposed Giant's stadium)(California) The Los Angeles Daily Journal March 23, 1992 V.105 N.58 p. B1 This article explores the propriety of a large retainer fee paid to a private law firm to negotiate and prepare documents for the proposed move of a professional baseball team. The negotiations occurred between local government and a private entity. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: USE OF BARGAINING TEAMS/ NEG: USE OF AGENTS/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ ROLE OF LAWYERS

Graham, William C. "Dispute resolution in the Canada-United States Free Trade Agreement: one element of a complex relationship" (Dispute Resolution Involving States) McGill Law Journal August, 1992 V.37 N.2 pp. 544-573 This article discusses methods adopted in the Free Trade Agreement to handle disputes between the United States and Canada. The methods used to resolve disputes include: consultation and binding arbitration by a panel of experts. The author concludes that alternative dispute resolution is effective in handling Free Trade Agreement disputes. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Grassley, Charles E.; Pou, Charles, Jr. "Congress, the Executive Branch and dispute resolution process" Missouri Journal of Dispute Resolution January, 1992 - Spring V.1992 N.1 pp. 1-24 The authors

describe how government attempts to decrease litigation by creating administrative agencies to handle disputes in their area of expertise has resulted in ineffectual bureaucracy. The Administrative Dispute Resolution Act of 1990 is analyzed and recommended as an alternative.

MED: ENCOURAGING COMM AND NEG/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION/ QUALITY CONTROL

Gravel, Serge; Peterson, Patricia "French law and arbitration clauses - distinguishing scope from validity: comment in ICC Case No. 6519 final award" (International Chamber of Commerce) (International Dispute Resolution Involving Private Parties) McGill Law Journal August, 1992 V.37 N.2 pp. 510-536 The article examines French law relating to the validity and scope of arbitration agreements in an international context, focusing on two recent cases that challenged the jurisdiction of an arbitral tribunal.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ COURT REFORM

Greco, Theresa "Couple's competency not arbitrable despite trust's arbitration requirement" Pennsylvania Law Journal-Reporter Inches March 23, 1992 V.15 N.12 p. 9 This newspaper article reports of the Pennsylvania Superior Court's decision that competency issues may not be settled through arbitration because the judicial system is the only appropriate forum to determine competency.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ / SUBJ MATTER: INT'L/ SUBJ MATTER: PROBATE/ REQUIREMENTS: CONTRACTUAL CLAUSES

Greenfield, Patricia A. "How do arbitrators treat external law?" (Studies of Grievance and Arbitration Processes) Industrial and Labor Relations Review July, 1992 V.45 N.4 pp. 683-696 This article focuses on a study which found a greater likelihood that the National Labor Relations Board will defer to an arbitrator's decision rather than rely on external law, public law which is external to a collective bargaining agreement.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

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Greenwald, Judy "Civil Procedure reform; federal courts may follow Arizona's lead" Business Insurance June 13, 1992 V.26 N.27 pp. 3(2) Discusses Arizona's reform to reduce cost, save time, and implement arbitration requirements. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING

Gregg, John P. "Get your mind right! Gas supply contracting without a safety net" Public Utilities Fortnightly May 15, 1992 V.130 N.7 pp. 31(3) Local gas distributors will have to change their contracting procedures to survive under Federal Energy Regulatory Commission Order No. 636 which creates a regulatory environment whereby gas purchasers and gas sellers can structure their relationships as much as possible by private commercial contracts after the initial transition. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: PUBLIC UTILITIES/ SUBJ MATTER: REGULATORY/ LEGISLATION

Grodin, Joseph R. "Constitutional values in the private sector workplace" Industrial Relations Law Journal July, 1992 V.13 N.1 pp. 1-37 The author discusses anti-discrimination provisions in collective bargaining agreements and the benefits of enforcing these values in the workplace. The article shows how employees benefit from the enforcement of these values by working in an environment that promotes professionalism. NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: INT'L

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ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/
OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S/ NEG:
TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ TYPE OF
SOURCE: CASE STUDY/RESEARCH REPORT/ POWER
IMBALANCE

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Guilds, John C., III "If it quacks like a duck: comparing the ICJ chambers to international arbitration for a mechanism of enforcement" Maryland Journal of International Law and Trade March 22, 1992 V.16 N.1 pp. 43-82 This article analyzes the International Court of Justice and concludes that it resembles international arbitration in its practices. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ SUBJ MATTER: RENTAL HOUSING/ CONFIDENTIALITY

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Guterk, Barbara A. "Disputes and dispute-processing in organizations" Studies in Law, Politics, and Society January, 1992 V.12 pp. 31-52 The article looks at disputing as a health party of public and private bureaucracies and suggests that structural factors in dispute processes have been largely revised. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ NEG: PSYCH CONSIDERATIONS/ MED: ENCOURAGING COMM AND NEG/ MED: REP OF A CLIENT DURING PROCESS

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Hadden, James "The authority of arbitrators to award punitive damages" Ohio State Journal on Dispute Resolution March 22, 1992 V.7 N.2 pp. 337-350 This article discusses the various reasons given by courts both for and against granting arbitrators the authority to award punitive damages in commercial arbitration. The author focuses on Raytheon Co. v. Automated Business Systems, 882 F.2d 6 (1st Cir.1989) and also analyzes other case law to find out why some courts hold that awarding punitive damages in commercial arbitration is per se illegal while other courts find that the parties must expressly agree on the issue of punitive damages in order for the arbitrator to award such damages. The author also examines a third alternative chosen by some courts that arbitrators should have discretion in awarding punitive damages. SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ REQUIREMENTS: CONTRACTUAL CLAUSES/ SELECTION OF APPROPRIATE PROCESS

Hajicek, Brian R. "Punitive Damages in New York Arbitration: Who is really being punished?" Journal of Dispute Resolution September 22, 1992 V.1992 N.2 pp. 361-75 This case note reviews Barbier v. Sheason Lehman Hutton, Inc. and argues that an approach which would allow punitive damages to be awarded in all cases (except where the parties expressly provide to the contrary) promotes settlement of disputes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ AGREEMENT ON PROCEDURE/ POWER IMBALANCE

Hammerschmidt, Thomas D., Jr.; Garvelink, Todd K. "Resolving Michigan Tax Disputes" Michigan Bar Journal July, 1992 V.71 N.7 pp. 640 This article is a survey of how a Michigan taxpayer can resolve a dispute with the state through a request for an informal conference. INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ ORGANIZATION POLICIES AND RULES

Hanbury, William "Alternative Dispute Resolution - the Australian model" Solicitors Journal April 10, 1992 V.136 N.14 pp. 334 The author states the case for ADR using the Australian model of ADR as an example of an effective alternative to litigation. INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER:

COMMERCIAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ROLE OF LAWYERS

Hansen, Steven W.; Boch, David C.; Henderson, R. Scott "Developments in Broker-Customer Litigation" Review of Securities & Commodities Regulation September 22, 1992 V.25 N.18 pp. 193-204 The authors write about a variety of securities issues, including the eligibility rules of self-regulating agencies which declare certain claims between brokers and customers ineligible for arbitration. Also examined are the applicable statutes of limitations and whether arbitrators can rule on this defense, as well as the ability to maintain a class action in arbitration. INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ ORGANIZATION POLICIES AND RULES

Harris, Richard G. "The Mandatory Dispute Resolution Conference: a rose by another name?" University of West Los Angeles Law Review January, 1992 V.23 pp. 345-50 The author articulates the problems with mandatory settlement conferences and suggests a mandatory dispute resolution conference either before or in lieu of the mandatory settlement conference. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Hart, Michael; Gera, Sushma "Trade and the environment: dialogue of the deaf or scope for cooperation?" (The Law and Economics of Environmental Regulation in the Canada/U.S. context) Canada-United States Law Journal January, 1992 V.18 pp. 207-34 The author comprehensively discusses the different goals and policies of trade negotiators and environmental regulators and hopes the two competing groups can reach common ground to promote sustained economic growth while adhering to environmental standards. The author also examines current international laws and agreements striking a delicate balance between trade and the environment such as GATT and NAFTA. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L/ LEGISLATION

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Hart, Ross R. "Improving your chance of success during construction mediation" Arbitration Journal December, 1992 V.47 N.4 pp. 14-20 This article gives recommendations for the maximization of chances of achieving resolution of disputes through construction mediation; including lawyer preparation, party preparation, generation of a number of settlement alternatives, choosing a mediator with complete authority, and seeking the cooperation of third parties. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: REP OF A CLIENT DURING PROCESS/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ ROLE OF LAWYERS

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Hauck, Vern E.; Pearce, Thomas G. "Sexual harassment and arbitration" Labor Law Journal January, 1992 V.43 N.1 pp. 31-39 The authors examine case law and published labor arbitration awards to determine how sexual harassment standards are being implemented and arbitrated. The authors conclude that the use of arbitration actually encourages anti-sexual harassment policies due to the tendency of split awards and awards against employers. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: EDUCATION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Hausmaninger, Christian "The ICC rules for a pre-arbitral referee procedure: a step towards solving the problem of provisional relief in international commercial arbitration" ICSID REVIEW - Foreign Investment Law Journal March 22, 1992 V.7 N.1 pp. 82-113 This article speaks favorably of the International Chamber of Commerce Rules which address the problem of provisional relief, with the specific intent to implement a system of provisional relief within its structure of

administered arbitration, rather than petitioning a national court for provisional relief. ARB: SELECTION OF ARBITRATOR/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ JUDICIAL PARTICIPATION/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

Hayes, Sherrard L., Jr. "The Federal Circuit's response to conflicting arbitration awards in labor disputes: split of harmony between the Sixth and Ninth Circuits" Tennessee Law Review January, 1992 - Winter V.59 N.2 pp. 353-365 The article discusses the positions taken by the Ninth Circuit and Sixth Circuit in regard to court-ordered tripartate arbitration between an employer and two labor unions. The Ninth Circuit believes that the employer bears the risk when making contracting decisions, and should therefore be prohibited from using tripartate arbitration. On the other hand, the Sixth Circuit believes that it is better to avoid conflicting awards by implementing tripartate arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR

Hayhurst, William L. "Patents and the supply of therapeutic products" (Antiprogesterone Drugs: Ethical, Legal and Medical Issues) Law, Medicine & Health Care September 22, 1992 - Fall V.20 N.3 pp. 235-237 If Canada does not license RU 486, then GATT negotiations for an intellectual property agreement excluding from patentability inventions necessary for the public health are possible. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: GOV'T

Heesan, Roy L.; Brady, Thomas E. F. "Arbitrating dismissals for nonunion employees: a Canadian perspective" Comparative Labor Law Journal March 22, 1992 - Spring V.13 N.3 pp. 273-292 In a minority of its jurisdictions, Canada has adopted statutes that mandate adjudication of wrongful termination disputes outside the civil courts, thereby providing a sort of "collective agreement" for the non-unionized sector. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST

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NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ
MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT
(NON-UNIONS)/ REQUIREMENTS: MANDATE TO USE/
REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Heinrich, Terry "The civil libertarian as censor: public response reconsidered" (response to Mari J. Matusda, Michigan Law Review, vol. 87, p. 2320, 1989) Albany Law Review December, 22, 1992 - Winter V.56 N.2 pp. 337-370 This article critically denounces Mari Matusda's law review article as a blatant attempt to overly censor racist speech through the use of criminal sanctions. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: CRIMINAL

Hellman, Joseph S. "Arbitration clause can stave off legal woes" (use in documents) (comment) American Banker February 15, 1992 V.157 N.23 p. 4 The author advocates arbitration clauses in loan agreements between banks and borrowers. The article gives specific examples of success in this area, and also discusses the consequences that may result from jury trials ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ CONFERENCE PROCEEDINGS

Hemphill, Thomas A. "Can new environmental laws overcome old flaws?" Business and Society Review September 22, 1992 - Fall N.83 pp. 46-49 The 1990s are seeing both positive and negative developments in environmental regulation. On the positive side is negotiated rulemaking, a cooperative effort of environmental groups, government, and the regulated business. The Negotiated Rulemaking Act of 1990 was enacted to help this process along. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF AGENTS/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L/ ORGANIZATION POLICIES AND RULES

Herber, Rolph "The Autonomy of International Commercial and Maritime Arbitration: International, Canadian and Far Eastern Perspectives" (book review) Journal of Maritime Law and Commerce October, 1992 V.23 N.4 pp. 653-656 A brief book review which effectively summarizes and analyzes its topic: the internationalization of commercial law. The book itself examines historical approaches toward litigation, arbitration, and conciliation while highlighting the various changes made in recent years. SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Hernandez, Ruben M. "Critical Documents Sourcebook Annotated: International Commercial Law and Arbitration" (book review) Denver Journal of International Law and Policy March 22, 1992 - Spring V.20 N.3 ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Hexter, Christopher T. "Duty to supply information Neilsen Lithographing Co. revisited: the Board's retreat from collective bargaining as a rational process leading to agreement" The Labor Lawyer September 22, 1992 - Fall V.8 N.4 pp. 831-848 This article focuses on the case of Neilsen Lithographing Co., 305 NLRB No. 90 (1991), as well as other cases, to determine exactly what words or circumstances will trigger the duty of an employer to disclose financial information to a union during negotiations. The author concludes that Neilsen has unduly limited such disclosure and argues that a broad disclosure rule would be more beneficial. SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ORGANIZATION POLICIES AND RULES

Hickey, Mary C. "The many faces of ADR" (District of Columbia) Washington Lawyer May, 1992 V.6 N.5 pp. 26(5) This article tracks the growth of ADR in all levels of D.C.'s judicial system - in the local courts, the federal courts, and even in the private sector. The author also provides a useful glossary of ADR terms. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ COURT REFORM/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Hill, Jonathan "The jurisdiction of the courts to grant interim measures in support of arbitration proceedings" (Great Britain) Lloyds Maritime and Commercial Law Quarterly August, 1992 N.3 pp. 310-317 This article discusses the availability and use of interim or provisional measures from the courts to assure effective arbitration proceedings. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ JUDICIAL PARTICIPATION

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Hill, Marvin, Jr.; Dalacenserie, Emily "Procrustean beds and the draconian choices: lifestyle regulations and officious intermeddlers - bosses, workers, courts, and labor arbitrators" Missouri Law Review January 1992 - Winter V.57 N.2 pp. 51-173 The article reviews controversial case law, both from the public and private sectors, and showcases a variety of employer attempts to regulate the lifestyles of employees in personal areas such as political activity, sexual relations, and body image or size. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Holcomb, Michael G. "The Demise of the FAA's 'contract of employment' exemption" Journal of Dispute Resolution March 22, 1992 - Spring V.1992 N.1 pp. 213-226 This note examines the case of Gilmer v. Interstate Johnson Lane Corp., and criticizes the Supreme Court's decision which expanded the scope of Federal Arbitration Act claims into the area of statutory claims and its refusal to validate the issue of the "contract of employment" exception to the Act. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ FAIRNESS/ LEGISLATION

Holloway, Ian "A case of judicial preference: an analysis of the legal doctrine relating to agency fees in the United States and Canada" Detroit College of Law Review December 22, 1992 - Winter V.1992 N.2 pp. 961-1018 A comparison of the U.S. and Canadian legal approaches to agency fee disputes involving unwilling union member participants and their respective unions. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Holmer, Alan F.; Bello, Judith H. "The fast track debate: a prescription for pragmatism" International Lawyer March 22, 1992 - Spring V.26 N.1 pp. 183-199 The author identifies the strengths and weaknesses of fast track procedures through an analysis of their use and extension of their use in the Uruguay Round multilateral trade negotiations. NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY

Hopkins, Thomas J. "Arbitration: a major league effect on players' salaries" Seton Hall Journal of Sports Law January 1992 - Winter V.2 N.1 pp. 301-335 The author explores the history of the business of baseball, which has led to the current system of salary arbitration and free agency. The author also discusses the salary arbitration process and its contribution to the rise in players' salaries. SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Horlick, Gary N. "Proposals for reform of the GATT antidumping code" (Symposium: The Uruguay Round and the Future of World Trade) Brooklyn Journal of International Law January, 1992 V.18 N.1 pp. 181-188 The author summarizes the recent history of international agreements on antidumping laws and hypothesizes that the upcoming "Berlin Round" will serve to establish more rational policy stances by many countries on the issue. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Horlick, Gary N.; DeBusk, F. Amanda "Dispute resolution panels of the U.S.-Canada Free Trade Agreement: the first two and one-half years" McGill Law Journal August, 1992 V.37 N.2 pp. 574-596 This article discusses the ADR procedure established by Canada and the U.S. to handle subsidy and dumping rules. Trade disputes concerning dumping are resolved by expert panels agreed on by both countries that hear the dispute in lieu of judicial review. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ MED: RELATED PROCESSES-GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: INT'L/ SUBJ MATTER: INT'L/ REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Horn, Walter "A guide to allocating resources between mediation and adjudication" The Justice System Journal March 22, 1992 - Spring V.15 N.3 pp. 824-841 This article proposes a methodology for instituting mediation in workers compensation cases. It explores the pros and cons of utilizing mediation as opposed to adjudication. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OBTAINING AGREEMENT TO USE/ MED: TIMING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ

MATTER: LABOR-GENERAL/ REQUIREMENTS: MANDATE TO USE/ ECONOMIC ADVANTAGES OF ADR

House, Nancy C. "Grievance mediation: AT&T's experience" (Industrial Relations Research Association: Proceedings of the 1992 Spring Meeting) Labor Law Journal August, 1992 V.43 N.8 pp. 491-495 This article presents the results of AT&T's experiment with grievance mediation, including procedures, problems, strengths, and weaknesses of the process, concluding overall that although arbitration is still available for those cases not settled, mediation has been effective in reaching settlements earlier.

MED: RELATED PROCESSES-GENERAL/ MED: TIMING/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ ECONOMIC ADVANTAGES OF ADR

Hudec, Robert E. "GATT and the developing countries" (Forum: Taiwan and the GATT) Columbia Business Law Review January, 1992 - Winter V.1992 N.1 pp. 67-77 A review of the "crisis" situation that currently exists between the GATT agreement and its developing country members. The developing countries that are parties to GATT fear new changes in the agreement could jeopardize the "preferential treatment" they have historically received. **NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL/ CONFERENCE PROCEEDINGS**

Humphrey, Laurie F. "Blurring the distinctions between the securities acts and among securities claims" Case Western Reserve Law Review January, 1992 - Winter V.42 N.2 pp. 659-677 Author comments on several recent cases related to securities regulation. The comment focuses on the flaws in the courts' current method of resolving securities issues. **SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ARB: BINDING ARB- GENERAL**

Hunter, Martin "International Commercial Arbitration: Scotland and the UNCITRAL Model Law" Llyods Maritime and Commercial Law Quarterly May, 1992 N.2 pp. 271-273 Briefly tracks the growth of international commercial arbitration and describes Davidson's book as a valuable commentary, which helps to place the Model Law into the Scot's law perspective. **ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ**

MATTER: INT'L/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW

Hurlburt, W.H. "A note on escape from arbitration clauses: effect of the new Arbitration Act" Alberta Law Review October, 1992 V.30 N.4 pp. 1361-1370 The author insightfully examines the procedural and substantive differences between the new and old versions of Alberta's Arbitration Act, which covers domestic arbitrations under Alberta law. The author focuses on the increasing difficulty parties experience in attempting to escape arbitration and the growing willingness to respect a party's contractual right to arbitrate claims. **ARB: BINDING ARB-GENERAL/ ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ SELECTION OF APPROPRIATE PROCESS**

Hurlburt, W.H. "New legislation for domestic arbitrations" Canadian Business Law Journal October, 1992 V.21 N.1 pp. 1-29 The article discusses the proposal in Canada to adopt a new Uniform Arbitration Act to replace the and update the current British Arbitration Act which has been in use since 1889. **ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ AGREEMENT ON PROCEDURE**

Hurlock, Matthew Hunter "The GATT, U.S. law and the environment: a proposal to amend the GATT in light of the tuna/dolphin decision" Columbia Law Review December, 1992 V.92 N.8 pp. 2098-2161 The author examines the environmental provisions of GATT (General Agreement on Tariffs and Trade), international law, and United States environmental laws, and concludes that GATT needs restructuring to encourage multilateral environmental agreements. Such agreements would aid the economies of other nations, as compared to the current stance of the U.S., which hampers the economic development of other countries. **INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ LEGISLATION/ POWER IMBALANCE**

Hurwitz, Ann "The use of alternative dispute resolution in franchising: an introduction" Franchise Law Journal January, 1992 - Spring V.11 N.4 p. 97(1) This article briefly discusses the benefits that ADR would

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bring to the long-term contractual relationships franchises are based on.
INST NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/
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ADVANTAGES OF ADR

Ikenberry, G. John "A world economy restored: expert consensus and the Anglo-American postwar settlement" International Organization January, 1992 - Winter V.46 N.1 pp. 289-321 The author reflects on the distribution of power interest in the post World War II era. The author describes the political and intellectual bases for coalition building on a grand scale that was provided by Keynesian thinkers. NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L

Imhoos, Christophe "The 1992 Geneva Chamber of Commerce and industry arbitration rules under scrutiny" Journal of International Arbitration December, 1992 V.9 N.2 pp. 121-139 This article takes an indepth analysis of the 1992 Geneva Chamber of Commerce and industry's recently adopted revised arbitration rules in the context of analyzing other arbitration solutions adopted by the International Chamber of Commerce and the American Arbitration Association. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: JUSTICE SYSTEM-OTHER

Jackson, Christopher "Re H" (conciliation: welfare reports) (revisted) Family Law November, 1992 V.22 pp. 468-469 The article discusses how the welfare officers in Hampshire, England have developed a system to continue the use of their conciliation scheme in light of a 1986 case, Re H. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ CONFIDENTIALITY

Jackson, John H. "GATT and the future of international trade institutions" (Symposium: The Uruguay Round and the Future of World Trade) Brooklyn Journal of International Law January, 1992 V.18 N.1 pp. 11-29 A discussion of the agenda of the United States during the Uruguay Round of GATT negotiations. Subjects of major interest to the U.S. include expanding the agreement to more fully cover agricultural trade, and developing new rules for protecting intellectual property. NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF

BARGAINING TEAMS/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL/ CONFERENCE PROCEEDINGS

Jackson, Michael "In search of the pathways to justice: alternative dispute resolution in aboriginal communities" (Canada) (Special Edition: Aboriginal Justice) University of British Columbia Law Review January, 1992 - Annual V.26 pp. 147-238 The article discusses the nature of the Canadian criminal justice system, the nature of the native Canadian-Indian justice systems, the development of ADR in the Canadian criminal justice system and ADR components in the native Canadian-Indian justice systems. The article focuses on a need to shift from principles of retribution to restoration in the criminal justice system. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Jacob, Herbert "The elusive shadow of the law" Law & Society Review August, 1992 V.26 N.3 pp. 565-590 This author reports hypotheses and findings from his research in the area of the involvement of law and its effects on child custody and support negotiations. The study concludes that the effects will depend on how a claim is framed, claimant's gender, attorney involvement, and use of informational networks. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ RELATION TO ONGOING LITIGATION

Jacob, Kenneth S. "Reinvigorating ICSID with a new mission and with renewed respect for party autonomy" (International Center for the Settlement of Investment Disputes) Virginia Journal of International Law September 22, 1992 - Fall V.33 N.1 pp. 123-159 This article recommends model arbitration clauses to be included in investment agreements to ensure ICSID jurisdiction over future disputes between investors and Hungary or Poland. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES

Jaffe, Ira F. "The arbitration of statutory disputes: the role of the arbitrator; procedural and substantive considerations" Hofstra Labor Law

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Journal September 22, 1992 - Fall V.10 N.1 pp. 317-340 Author distinguishes between the role an arbitrator plays in a contractual versus a statutorily based arbitration. It is suggested that in the statutory context the author must exercise greater independence in his decision making process. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES

Jascourt, Hugh D. "What do greivants think of grievance mediation: a riposte to 'Counterpoint: Response to Mediator Caraway'" (Gordon A. Gregory and Mark Heinen, Journal of Law & Education, vol.20, p. 97, 1991) (John M. Caraway, Journal of Law & Education, vol. 18, p. 495, 1989) The Journal of Law and Education March 22, 1992 - Spring V. 21 N. 2 pp. 217-220 This article notes the importance of the grievants' acceptance of mediation but emphasizes that most greivants are satisfied with the mediation process in labor/collective bargaining disputes. MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL

Javitt, Gail; Lu, Elaine "Capping the crisis: medical malpractice and tort reform" Law, Medicine & Health Care September 22, 1992 - Fall V. 20 N. 3 pp. 258-261 The interest in medical malpractice tort reform arises from an alleged adverse impact of malpractice litigation on medical care. Courts have disagreed on the constitutionality of one reform damage cap, and these have been challenged on Seventh and Fourteenth Amendment grounds. A federal bill suggests encouraging the use of alternative dispute resolution rather than litigation. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: OTHER TORTS/ SUBJ MATTER: MEDICAL MALPRACTICE/ SELECTION OF APPROPRIATE PROCESS

Jiang, Zhaodong "Federal arbitration right, choice-of-law clauses and state rules and procedure" Southwestern University Law Review September 22, 1992 - Fall V. 22 N. 1 pp. 159-237 The author comprehensively discusses Volt Information Science, Inc. v. Board of Trustees of Leland Stanford Junior University, 489 U.S. 468 (1989), and other cases in explaining the complex problems that arise out of the conflict between state courts and federal courts when choice-of-law clauses and other issues of party autonomy are asserted in both litigation and under the Federal Arbitration Act. MED: RELATED PROCESSES- GENERAL/ MED: OBTAINING AGREEMENT TO USE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:

GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON PROCEDURE/ LEGISLATION/ RELATION TO ONGOING LITIGATION/ SELECTION OF APPROPRIATE PROCESS

Johnson, W. Roy "Public and private sector comparison of an abbreviated measure for union commitment" Journal of Collective Negotiations in the Public Sector January, 1992 - Winter V. 21 N. 1 pp. 15-26 The author compares and contrasts labor relations involvement on the public and private sector levels. One primary difference between the two is their method for negotiating disputes--especially as it regards the grievance procedures used and the actors involved. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Johnston, Douglas M. "Religion and conflict resolution" (includes discussion) (Symposium: Theories of Dispute Resolution) Notre Dame Law Review July, 1992 V.67 N.5 pp. 1433-1454 The typical strategies for dealing with conflict resolution were developed in an era where tangible interests were at stake. However, nonmaterial "identity based" conflicts such as those based on religion will need different tools to cope in the future. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L

Jones, Elizabeth "Becoming an arbitrator, or how the other half judge" (Great Britain) Solicitors Journal September 11, 1992 V.136 N.35 pp. 885(2) The article outlines the stages by which a solicitor may become a Fellow of the Chartered Institute of Arbitrators. Author claims the original promise of arbitration as a streamlined, cheap, commercial way of resolving disputes has been compromised to the extent it has become a legal process with rules of practice and procedure of its own.

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Jones, William R., Jr.; Napolitano, Janet A.; Myers, Robert D. "The great experiment; Arizona's newly enacted rules of discovery and arbitration" (includes related article on the Mandatory Alternate Discovery Track Experiment) Arizona Attorney May, 1992 V.28 N.9 pp. 18(7) Arizona's new rules of arbitration and mediation within the court system are a welcomed effort to reform the over-burdened system and will require attorneys to adopt a more cooperative role, particularly in discovery proceedings. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: GENERAL/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

Joseph, Gregory P. "Discovery should not be abolished" Arbitration Journal September, 1992 V.47 N.3 pp. 61-2 In response to the idea of eliminating the discovery rules, this author supports the continued use of the discovery rules. He asserts that the discovery rules were promulgated to eliminate courtroom surprises and to encourage third-party cooperation, and that these objectives are still important. SUBJ MATTER: GENERAL

Kallel, Sami "The Tunisian draft law on international arbitration" Journal of International Arbitration December, 1992 V.9 N.4 pp. 71-92 This article surveys Tunisia's entrance into the field of international arbitration in part due to the advantages of arbitration in resolving international commercial disputes, but more as a result of the Tunisian government's concern with the increase in international investments. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L

Kampelman, Max. M. "A negotiator looks at the winds of change and the rule of law" (The Judge Edward D. Re Distinguished Lecture Series) St. John's Law Review September 22, 1992 - Fall V.66 N.3 pp. 551-558 In this article the speaker comments on the changing world-increased technology and social and political upheaval, and stresses how American democratic values can help struggling countries achieve liberty, peace and human dignity. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ CONFERENCE PROCEEDINGS

Kane, Christopher "Mitigating construction contract disputes" (power plant construction) Public Utilities Fortnightly July 1, 1992 V.130 N.1

pp. 11(2) The need for dispute resolution procedures in power plant construction contracting is increasing as the industry moves toward a more adversarial process. The approach to dispute resolution should be flexible and incorporate a variety of processes such as partnering, structured negotiations, dispute review boards and mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: PUBLIC UTILITIES/ SELECTION OF APPROPRIATE PROCESS

Kanner, Gideon "Servant or master? The principal function of courts in dispute resolution" The Los Angeles Daily Journal September 23, 1992 V.105 N.186 p. 6 This article proposes that the principal function of courts is dispute resolution, through the discussion of a California Supreme Court case where the litigants agreed to a settlement pending appeal of the case which required vacating the trial court's decision. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: GENERAL/ SETTLEMENT: AUTHORITY/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Karnes, David K. "International Trade at a Crossroads: The Role of International Law and International Institutions in the Post Uruguay Round Era" Nebraska Law Review March 22, 1992 - Spring V.71 N.2 pp. 438-459 The article discusses the role of the United States, international law, and the international institutions in the era following the Uruguay Round of GATT held in 1991. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T// SUBJ MATTER: INT'L

Karon, Daniel R. "Kicking our gift horse in the mouth - arbitration and arbitrator bias: its sources, symptoms, and solutions" Ohio State Journal on Dispute Resolution March 22, 1992 - Spring V.7 N.2 pp. 315-336 The article discusses the sources and the possible solutions to two types of arbitrator bias: "personal bias" and "contextual bias." ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SERVING AS ARBITRATOR/ 3RD PARTY: NEUTRALITY

Kaufman, Joseph Q. "An analysis of developing instream water rights in Oregon" (Seventh Biennial Review of Oregon Issues and Legislation) Willamette Law Review March 22, 1992 Spring V.28 N.2 pp. 285-332 The article discusses the concept of and need for the creation of instream

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water rights, with particular emphasis on Oregon's endeavors in this area, and offers suggestions for the development of this area in the future.

SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: FARM/ TYPE OF SOURCE: BOOK REVIEW/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ LEGISLATION

Kaufman, Stuart A. "Bargaining orders and administrative delay within the NLRB" (National Labor Relations Board) (Survey of First Circuit Law: 1991-1992) Suffolk University Law Review September 22, 1992 - Fall V.26 N.3 pp. 825-821 The author analyzes NLRB v. LaVerdiere's Enter., 933 F.2d 1045 (1st Cir. 1991) and focuses especially on the NLRB's position in that case in the area of labor law as a whole.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES

Kelly, Joan B. "Who should be the mediator? Working alone or in tandem with you, a mental-health expert can make all the difference in your case" Family Advocate March 22, 1992 - Spring V.14 N.4 pp. 18(5) This article describes various mediation models that utilize mental health professionals in divorce mediation.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ QUALITY CONTROL/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

Kendall, John "Expert dispute determination" (Great Britain) Solicitor's Journal March 27, 1992 V.136 N.12 pp. 286(2) This article recommends that parties to a contract should consider appointing, by way of an expert clause contained within the contract, a suitable third-party with expertise in the disputed area in order to determine the issue.

ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Kendall, John "Let the experts decide" (expert determination as the best form alternative dispute resolution for technical disputes) (United Kingdom) Solicitor's Journal November 6, 1992 V.136 N.43 pp. 1122(1) The author argues that expert determination is the best ADR for technical disputes. The author advocates that the use of experts rids ADR of expensive and time-consuming discovery processes. SUBJ MATTER: SCIENCE & TECHNOLOGY/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

Keneally, Paul "Labor injunctions pending arbitration: should courts enjoin managements; unilaterally implemented drug-testing programs?" Fordham Law Review April, 1992 V.60 N.5 pp. 1035-1055 This article discusses arguments for and against granting injunctions to prevent management from unilaterally implementing a drug-testing program pending an arbitrator's final decision, concluding that courts should grant the injunctions. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Kier, Michael W. "Procedural due process and an arbitrator's punitive damage award" Case Western Reserve Law Review June 22, 1992 V.42 N.3 pp. 1085-1101 This article examines the Ninth Circuit's decision in Todd Shipyard Corp. v. Cunard Line, Ltd. and argues that the court failed to apply the procedural due process analysis outlined by the U.S. Supreme Court in Pacific Mutual Life Insurance Co. v. Hasling, in upholding a one million dollar punitive damage arbitration award. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW

Kieve, Loren "Discovery is a waste of time and money" Arbitration Journal September, 1992 V.47 N.3 pp. 60-61 Because discovery has made litigation more expensive and time consuming, this author presses for an increased use of arbitration, a mechanism which does not allow discovery as a right. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

Kirchheimer, Barbara "Archer slams Democrats for strong-arming GOP" (Bill Archer) Tax Notes February 24, 1992 V.54 N.8 pp. 914-915 This article is a good example of how negotiation can be difficult when it is bipartisan. Specifically, the article discusses the struggle over

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the tax bill in the House of Representatives as Republicans accuse Democrats of blocking bipartisan negotiations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT

Kirkpatrick, Laird C. "Scholarly and institutional challenges to the laws of evidence: from Bentham to the ADR movement" (Symposium: Does Evidence Law Matter?) Loyola of Los Angeles Law Review April, 1992 V.25 N.3 pp. 837-852 This article compares the writings of a scholarly critic on the exclusionary rules of evidence, with similar theories behind the ADR movement, and concludes that with more attention given to ADR, there will continue to be a diminished importance on the rules of evidence; however, the underlying principles of the law of evidence will continue to influence every form of dispute resolution. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COURT REFORM/ TEACHING

Kirkwood, Genevieve; Purdue, Michael "The Hampshire Shopping Centre - extension to - substantial highway objections - Grampian condition refuses - no section 106 (then s. 52) agreement negotiated - whether Secretary of State under duty to issue a "minded to grant" letter" (Great Britain) Journal of Planning & Environment Law May, 1992 pp. 434-442 A negotiated agreement between a city council and a real estate developer was refused by the court in order to comply with a "reasonable prospect" test for the conditions. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: ENVIRONMENT

Kleinman, Harvey "Relocate or renegotiate your office space" Trial April, 1992 V.28 N.4 pp. 68(3) This article discusses the many considerations that law firms face when deciding to relocate and the possible concessions that can be negotiated from a prospective landlord to facilitate the relocation process. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/CRITERIA/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: RENTAL HOUSING/ QUALITY CONTROL

Knopf, Fred N. "Using federal magistrates to resolve securities disputes: a viable alternative" Bridgeport Law Review January, 1992 - Winter V.12 N.2 pp. 537-537 This note suggests that the arbitration of disputes under section 12(2) of the Securities Act of 1933, is jurisprudently questionable and that the use of federal magistrates under the Federal Rules of Civil Procedure 72 through 75 would be a viable alternative for the resolution of securities disputes. ARB: BINDING ARB-GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: SECURITIES/ SELECTION OF APPROPRIATE PROCESS

Kraemer, Karen D.; Singer, David "Teaching mediation: the need to overhaul legal education" (includes related article on the meaning of the word mediation) Arbitration Journal September, 1992 V.47 N.3 pp. 12-15 This article suggests ways of integrating mediation into society; including changing law school curriculum, by training students to be problem solvers rather than adversaries and including mediation on the bar examinations. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: EDUCATION/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

Lakatos, Joseph P.; Stenson, Thomas G. "Punitive damages under the Federal Arbitration Act: have arbitrators' remedial powers been circumscribed by state law?" St. John's Journal of Legal Commentary March 22, 1992 - Spring V.7 N.2 pp. 661-680 Article discusses the relationship of the Federal Arbitration Act (FAA) to state law. The issue explored is whether punitive (exemplary) damages are enforceable by a court after being awarded in an arbitration when state law would not allow such damages. The author maintains that Congress should define the role of the FAA as preemptive over state law. ARB: BINDING ARB-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: PUBLIC POLICY

Lamber, Julia "Overqualified, unqualified or just right: thinking about age discrimination and Taggart v. Time " (The Second Circuit Review: 1990-1991 Term) Brooklyn Law Review June 22, 1992 - Summer V.58 N.2 pp. 347-367 This article examines the Second Circuit's decision in Taggart v. Time and discusses its implication for future age discrimination cases. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: OTHER TORTS

Lambert, Kim A. "Fundamentals of alternative dispute resolution" Franchise Law Journal March 22, 1992 - Spring V.11 N.4 pp. 99(5) Article discusses several alternative dispute resolution methods other than arbitration as potentially beneficial and cost-effective in the business environment. MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OBTAINING AGREEMENT TO USE/ MED: REP OF A CLIENT DURING PROCESS/ MED: REP OF A CLIENT DURING PROCESS/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ ECONOMIC ADVANTAGES OF ADR

Lawonn, Michele M. "Legislatively mandated ADR in Colorado workers' compensation" Colorado Lawyer April, 1992 V.21 N.4 pp. 679(4) This article discusses Colorado's legislatively mandated ADR program, provides a legislative history for it, defines mediation and arbitration, and demonstrates the use of ADR in workers' compensation issues. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION

Lehr, Kathi "In your face' meets 'mediation'" (Washington) (Special Issue: Law-Related Education) Washington State Bar News April, 1992 V.46 N.4 pp. 17(1) This article discusses a conflict resolution program implemented in a Seattle, Washington high school. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: EDUCATION

Lehrman, Ronald; Wilson, Jennifer "Enforcement/dispute resolution" (judicial and non-judicial) (Making History: Trademarks in 2017) Trademark Reporter September, 1992 V.82 N.5-5A pp. 925-930 The article focuses on the question of whether or not a specialized trademark court should be created at the international level. While ideally, the notion is accepted by many countries, realistically, the creation of such a court would lose the support of a majority of the nations that wish to retain their sovereign power to enforce trademark rights. NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: INT'L/ SETTLEMENT:

**ENFORCEMENT OF SETTLEMENT OR AWARD/ AGREEMENT ON
PROCEDURE/ NON-BINDING RECOMMENDATION PROC- EARLY
NEUTRAL EVAL/ SELECTION OF APPROPRIATE PROCESS**

Leny, Paul Alan "Deferral to the intraunion appellate process: a response" (Leonard Page and Daniel W. Sherrick, University of Michigan Journal of Law Reform, vol. 24, p. 647, 1991) University of Michigan Journal of Law Reform March 22, 1992 - Spring-Summer V.25 N.3-4 pp. 907-923 This article identifies and addresses the implications of deferral policies for union reform and their applicability to private dispute-resolution mechanisms that are typically found in the constitutions of labor unions. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES

Lerner, Richard E. "Outlook promising for arbitration of title insurance disputes" Title News November, 1992 V.71 N.5 pp. 5(2) The article discusses the benefits of arbitration and reasons why it has been included in the standard policy form of the American Land Title Association since 1987. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COMPLIANCE ISSUES

Lieberman, Myron "Reflections on the rationales for teacher bargaining" Government Union Review September, 1992 - Spring V.13 N.2 pp. 1-9 This article discusses the theoretical basis for state legislation providing collective bargaining rights for teachers; a comparison is made between public and private school employment. SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TEACHING/ LEGISLATION

Lionnet, Klaus "Should the procedural law applicable to international arbitration be denationalised or unified? The answer of the Uncitral Model Law" Journal of International Arbitration September 22, 1992 V.8 N.3 pp. 5-23 This article looks at the relevance of the agreement on national procedural law in the arbitration clause to answer the question of how the efforts of international arbitration on national procedural law fit in with the recommendation by the UN to adopt the Model Law as a new

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type of national procedural law for international arbitration. NEG: W/
OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST
NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: GENERAL/
SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE

Lisi, Lauren Barritt; Burns, Anne M. "Mediation in guardianship cases: a promising alliance" (guardianship involving elderly people) Clearinghouse Review October, 1992 V.26 N.6 pp. 644-645 This article analyzes the primary partnership between mediation of guardianship cases involving the elderly MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ INST NATURE: GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SENIOR CITIZENS AS PARTIES

Love, William "Review of Construction Administration Architectural Practice" (book review) Arbitration Journal March, 1992 V.47 N.1 pp 66 Book review that praises Arthur O'Leary's analysis of the problems that occur during the construction process. O'Leary advocates dispute avoidance processes to stop problems before they start. SUBJ MATTER: CONSTRUCTION/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR

Low, Bill "Compensated judicial appointments: judicial discretion, accountability, and public perception" (Texas) Texas Bar Journal October, 1992 V.55 N.9 pp. 936(2) Article written by a non-lawyer, who served on the Supreme Court of Texas Task Force on Judicial Appointments, offering a personal perception of judicial appointments of mediators. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ 3RD PARTY: SELECTION/ COURT REFORM

Lowe, Vaughan "Jurisdictional Problems in International Commercial Arbitration: A Study of Belgian, Dutch, English, French, Swedish, Swiss, United States And West German Law" (book review) Lloyds Maritime and Commercial Law Quarterly May, 1992 N.2 pp. 277-278 Brief summary and review of the recent study, which in Lowe's opinion, is an "invaluable introduction" to the subject. SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ TYPE OF SOURCE: BOOK REVIEW

Lowe, Vaughan "Law and Practice of International Commercial Arbitration, 2nd ed." (book review) Cambridge Law Journal July, 1992 V.51 N.2 pp. 376-378 Favorable book review of this second edition of

Redfern and Martin because it provide both practical and scholarly insight into commercial arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Lowe, A.V. "Review of arbitral awards by the International Court" Cambridge Law Journal March 22, 1992 V.51 N.1 pp. 1-3 Case comment regarding maritime boundary dispute between Guinea-Bissau (Portugese province) and Senegal. The Comment reflects the conservative approach of the International Court of Justice (ICJ) and contrasts it to the Court of Justice of the European Community. The ICJ was petitioned to set aside an arbitral tribunal decision. ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

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Lunny, David; Wakely, Wilf "Canadian ADR: towards an hospitable environment" Canadian Busniess Law Journal March, 1992 V.20 N.1 pp. 42-62 An overview of international business arbitration as between Canada and Japan. The need for Canada to have an arbitration framework by which to resolve disputes with Japan increases with the growing trade relationship between the two countries. After the United States, Japan is now Canada's most important trading partner. NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ AGREEMENT ON PROCEDURE

Ma, Jacinta "The Politics of Negotiation: America's Dealings with Allies, Adversaries, and Friends" (book review) New York University Journal of International Law and Politics June 22, 1992 - Summer V.24 N.4 pp. 1882-1883 This book review finds the author's book a highly informative description of various security negotiations and argues that politics must be included among the list of factors that influence the negotiation process. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T

Mackie, Karl "ADR in Europe - lessons from a classic US case: IBM v. Fujitsu" EIPR: European Intellectual Property Review May, 1992 V.14 N.5 pp. 183-186 This article addresses the significance of alternative

dispute resolution in European commercial and civil disputes and the benefits of utilizing ADR for the field of intellectual property. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: CULTURAL CONSIDERATIONS/ MED: PUBLIC POLICY DIALOGUE/ MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: MANDATE TO USE/ ECONOMIC ADVANTAGES OF ADR

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Noyola, Miguel "United States/Mexican/Canadian view of agreement benefits and drawbacks" (Proceedings of the Fifth Annual Seminar on Legal Aspects of Doing Business in Latin America: Free Trade - the Door Opens) Florida Journal of International Law March 22, 1992 - Spring V.7 N.1 pp. 55-58 The author of this speech highlights the benefits and drawbacks of the North American Free Trade Agreement as it will affect Mexico. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ CONFERENCE PROCEEDINGS

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Nurick, Lester "Costs in international arbitrations" ICSID Review - Foreign Investment Law Journal March 22, 1992 - Spring V.7 N.1 pp. 57-81 This article focuses on who should bear the costs of arbitration procedures in international disputes and questions what effect national law will have in this decision. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-FEES & FUNDING/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L/ ORGANIZATION POLICIES AND RULES

O'Donoghoe, Andy "Small claims division established: fast, cheap, informal arena for dispute resolution" Law Society Journal August, 1992 V.30 N.7 pp. 61(3) The author outlines the workings of a small claims court operating in Australia, the principle benefits of which include sympathy and the speed of resolution. Many informal, arbitration/mediation techniques are employed. INST NATURE: JUSTICE SYSTEM- SMALL CLAIMS COURTS/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ COURT REFORM/ SELECTION OF APPROPRIATE PROCESS

O'Grady, John E. "Canada, Mexico, and the United States agree to form the world's largest common market - political battle over pact expected" Tax Notes International August 24, 1992 V.5 N.9 pp. 443-447 Author discusses the various advantages and disadvantages accruing to the three countries forming a new market under the North American Free Trade Agreement. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ INST NATURE: JUSTICE SYSTEM- OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ COMPARISONS: CROSS-CULTURAL

O'Neill, Onora "Reason and the resolution of disputes" (Symposium: Theories of Dispute Resolution) Notre Dame Law Review July, 1992 V.67 N.5 pp. 1365-1384 This article discusses the use of reason as one method of settling disputes and what reason can and cannot accomplish in the settling of disputes. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ COMPARISONS: HISTORICAL/ DISPUTE NEG. v. DEAL MAKING

Olson, Craig A.; Dell'Omo, Gregory G.; Jarley, Paul "A comparison of interest arbitrator decision-making in experimental and field settings" (*Studies of Grievance and Arbitration Processes*) Industrial and Labor Relations Review July, 1992 V.45 N.4 pp. 711-723 Authors evaluate the external validity of experimental studies by comparing the decisions made in an experiment with those made in actual cases by the same arbitrators. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ QUALITY CONTROL

Omaji, Paul Omojo; Hopkins, Andrew "Social control tradition and the adoption of compulsory arbitration law in Australia and Nigeria" International Journal of the Sociology of the Law September, 1992 V.20 N.3 pp. 225-251 Article discusses similarities between compulsory arbitration law in Australia and Nigeria, arguing that coercive social control traditions and a strong military style of control in both countries led to similarities in their compulsory arbitration law. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GOV'T/ COMPARISONS: CROSS-CULTURAL

Oman, Ralph "Bob Kastenmeier and the legislative process: sui generis and proud of it" (Copyright and Legislation: The Kastenmeier Years) Law and Contemporary Problems March 22, 1992 - Spring V.55 N.2 pp. 241-248 This article praises Robert W. Kastenmeier's ability to use restraint, compromise, and deliberation to negotiate legislation such as the Berne Convention and the 1976 Copyright Act. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ/ DISPUTE PREVENTION/ LEGISLATION

Ostas, Daniel T. "Predicting unconscionability decisions: an economic model and an empirical test" American Business Law Journal July, 1992 - Winter V.29 N.4 pp. 535-584 This article attempts to quantify and predict unconscionability decisions by looking at three economic variables: contractual terms, relational context and negotiation process. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/CRITERIA/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL

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Ostrach, Stephen S. "Appellate ADR: the First Circuit's new Civil Appeals Management Program and its implications for the Massachusetts Appellate Courts" Boston Bar Journal January, 1992 V.36 N.1 pp. 17(5) The article explains how the First Circuit has incorporated court reform through a court management program which involves dispute resolution. While many believe this is a step in the right direction, the program will not be endorsed by some until its full effects are shown, specifically to lower appellate courts. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION

Oviatt, Clifford R., Jr. "Recent developments at the National Labor Relations Board" (Labor Law Symposium) Stetson Law Review September 22, 1992 - Fall V.22 N.1 pp. 115-132 This article discusses the question of when an employer must turn over information requested by a union concerning the employer's financial condition, where during the bargaining the employer claims that it cannot pay a requested increase in the economic terms of the contract because its competitive position will suffer. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBPOENA AND DISCOVERY

Page, Leonard; Sherrick, Daniel W. "Further thoughts on deferral to private dispute resolution procedures: a response" University of Michigan Journal of Law Reform March 22, 1992 V.25 N.3-4 pp. 925-954 Article advocates heightened standards for internal union reviews so that the results may be viewed as persuasive in subsequent litigation. INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ ORGANIZATION POLICIES AND RULES/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB

Park, Marilyn; Wood, Erica; Gottlich, Vicki "Developing a legal services program policy on alternative dispute resolution: important considerations for older clients and clients with disabilities" Clearinghouse Review October, 1992 V.26 N.6 pp. 635-643 This article suggests the

adoption of formal ADR policies among legal service organizations and for the elderly and disabled so that advocates may make informed decisions about when and how to use ADR; the article also summarizes concerns and suggestions raised in past joint conferences on law and aging.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY
DIALOGUE/ MED: REP OF A CLIENT DURING PROCESS/ ARB:
CLIENT REP/ DISPUTE PREVENTION/ OMBUDSPERSON/ POWER
IMBALANCE/ SENIOR CITIZENS AS PARTIES

Parker, Bruce R. "What can be done to enforce mediation agreements?"
Defense Counsel Journal July, 1992 V.59 N.3 pp. 322-339 An
examination of practical methods to enforce mediation contracts once an
agreement is reached. MED: RELATED PROCESSES-GENERAL/
INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ TYPE OF
SOURCE: BOOK REVIEW

Parker, Diana "Role of the lawyer - mediator on marriage breakdown"
Solicitors Journal December 11, 1992 V.136 N.48 p. 1253(2) The
article discusses mediation as a method to reach financial settlements in
marital dissolutions, including the role of the mediator and qualifications
for a mediator. MED: RELATED PROCESSES-GENERAL/ MED:
ENCOURAGING COMM AND NEG/ MED: REP OF A CLIENT
DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/
3RD PARTY: TRAINING/ ROLE OF LAWYERS

Partridge, Dane M. "A cross-sectional analysis of teacher strike activity"
Journal of Collective Negotiations in the Public Sector January, 1992 -
Winter V.21 N.1 pp. 27-43 While teachers are not the traditional
concept of employees who are involved in strike activity, studies show that
ineffective negotiation is a cause for striking in a variety of different
school settings-often regardless of the socio-economic class of the
community. NEG: TACTICS, STRATEGIES AND TECHNIQUES-
GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
POWER/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-
GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Paul, Niall A. "The Civil Rights Act of 1991: What does it really
accomplish?" Employee Relations Law Journal March 22, 1992 V.17
N.4 pp. 567-591 The article critiques the Civil Rights Act of 1991 and
questions whether Section 118 of the Act will be interpreted by the courts
as sanctioning the arbitration of claims under federal civil rights
legislation. ARB: MANDATORY, COURT-ANNEXED- GENERAL/

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SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ LEGISLATION

Peck, Cornelius J. "Reading tea leaves: the future of negotiations for tort claimants free from fault" The University of Puget Sound Law Review January, 1992 V.15 N.2 pp. 335-360 The author reviews the Tort Reform Act of 1986 in order to reveal problems with the Act, especially in terms of its effects on negotiators of settlements in tort cases, and analyzes the negotiation process in regard to fault-free plaintiffs and multiple defendants. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ SUBJ MATTER: TOXIC TORTS/ SUBJ MATTER: OTHER TORTS/ LEGISLATION/ SELECTION OF APPROPRIATE PROCESS

Pengilley, Warren "Mediation and alternative dispute resolution: some Australian observations" New Zealand Law Journal January, 1992 pp. 11-15 This article provides background and examples of ADR and describes prerequisites, advantages, disadvantages, and the role of lawyers in the ADR process. COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

Percival, Robert V. "The ecology of environmental conflict: risk, uncertainty and the transformation of environmental policy dispute" Studies in Law, Politics, and Society January, 1992 - Annual V.12 pp. 209-246 This article relates the process of how environmental disputes arise and what effect public policy through recent regulations has upon the value conflicts, in society, which are at the center of environmental dispute. Informational alternative regulation mechanisms are briefly mentioned as a better environmental policy enabling education to decrease risk and empowerment to protect against exposure. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: TOXIC TORTS

Petersen, Donald J. "Trends in arbitrating falsification of employment application forms" Arbitration Journal September, 1992 V. 47 N. 3 pp. 31-37 This article relates the analysis from a study of all published cases involving arbitrating disputes over the falsification of employment application forms, and concludes that arbitrators tend to look at certain issues such as intent to deceive, the materiality of the information, and the employer's duty to inquire when deciding the cases. ARB: BINDING

**ARB- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT**

Peterson, Lynn "The promise of mediated settlements of environmental disputes: the experience of EPA region V" Columbia Journal of Environmental Law September 22, 1992 -Fall V.17 N.2 pp. 327-380
The article discusses certain features characteristic of superfund and other kinds of toxic waste litigation that makes mediation a highly suitable technique for avoiding litigation in court. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: TOXIC TORTS/ ECONOMIC ADVANTAGES OF ADR

Plass, Stephen A. "Arbitrating, waiving and deferring Title VII claims" Brooklyn Law Review September 22, 1992 - Fall V.58 N.3 pp. 779-833
The author discusses various implications of using arbitration in employment cases involving Title VII on employees, labor unions, and the National Labor Relations Board, and also focuses on a recent Supreme Court decision involving such issues. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION/ ORGANIZATION POLICIES AND RULES

Porrata-Doria, Rafael A., Jr. "The Philippine Bases and Status of Forces Agreement: lessons for the future" Military Law Review June 22, 1992 V.137 pp. 67-102
This article discusses the history and major provisions of the Philippine Bases and Status of Forces Agreement (Philippine SOFA). It also discusses several issues and problems that arose during prior negotiations over the Philippines SOFA and concludes by summarizing the principal lessons that can be learned from the negotiating experience. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ COMPARISONS: HISTORICAL

Press, Martin R. "Officers in compromise as to collectability of taxes: the new government policy" Florida Bar Journal July, 1992 V.7 N.7 pp. 60-63
The Internal Revenue Service is changing its procedure for settlement when taxes are due but not paid to prevent the shutting down of businesses. The IRS is now willing to work out settlements on a more rational approach so that the taxpayer may simultaneously settle both liability and payments INST NATURE: GENERAL/ INST NATURE:

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GOV'T ENTITIES/ SUBJ MATTER: TAX/ SETTLEMENT:
PRESSURES TO SETTLE/ ECONOMIC ADVANTAGES OF ADR/
ORGANIZATION POLICIES AND RULES

Prosper, Peter A.; Douglas, Joel M. "The arbitration of human rights complaints: the New York experience" Arbitration Journal December, 1992 V.47 N.4 pp. 26-32 This article describes legislation in New York allowing for voluntary arbitration of backlogged human rights cases and the experimental program created to provide the arbitrations. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ LEGISLATION/ RELATION TO ONGOING LITIGATION

Provine, Doris Marie "Justice a la carte: on the privatization of dispute resolution" Studies in Law, Politics, and Society January, 1992 V.12 pp. 345-366 This article discusses developments in, the significance of, and evaluations of private dispute resolution techniques in the American judicial system. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- OTHER/ SUBJ MATTER: GENERAL

Prujiner, Alain "L'adaptation forcee du contract par arbitrage" (International Dispute Resolution Involving Private Parties) McGill Law Journal August 1992 V.37 N.2 pp. 428-47 The author analyzes whether contractual modification can be done by an arbitrator. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SERVING AS ARBITRATOR/ SELECTION OF APPROPRIATE PROCESS

Pryles, Michael "Current issues in international arbitration in Australia" Journal of International Arbitration December, 1992 V.9 N.4 pp. 57-70 Discusses Australian Courts' willingness to accept international arbitration results. Additionally, the growth in participation by Australian lawyers on international arbitration panels is discussed. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: COMMERCIAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L

Pryles, Michael "International Commercial Arbitration in Australia: Law and Practice" University of Western Australia Law Review December, 1992 V.22 N.2 pp. 440-442 This book review is highly critical of the loose-leaf service pertaining to international commercial arbitration in

Australia; the review concludes the work is poorly organized and should not be relied upon. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW

Purvis, Johnny R.; Andrews, W.E., III "The legal status of letters of intent in public school districts" Journal of Collective Negotiations in the Public Sector March 22, 1992 - Spring V.21 N.2 pp. 139-149 This article discusses the relevant laws and regulations which relate to school teachers if management signs letters of intent. INST NATURE: GENERAL/ SUBJ MATTER: EDUCATION/ COMPLIANCE ISSUES

Quayle, Dan "Civil Justice Reform" (United States Court of Appeals for the Federal Circuit Tenth Anniversary Commemorative Issue) American University Law Review March 22, 1992 V.41 N.3 pp. 559-69 Proposals for reform of the civil justice system, including mandatory settlement conferences and pre-complaint notice to opposing parties of intent to sue. The article also encourages contract provisions for alternative dispute resolution. INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: GOV'T/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Rahnema-Moghadam, Mashalah; Dilts, David A.; Karim, Ahmad R. "The arbitration of disciplinary matters in the public sector: does objective evidence make a difference?" Journal of Collective Negotiations in the Public Sector March 22, 1992 - Spring V.21 N.2 pp. 151-157 The authors conclude, on the basis of a study regarding labor arbitration awards, that the use of objective evidence in employer-employee disciplinary matters such as time cards allows the burden of proof to be easily met. Similarly, the use of company records as objective evidence in employee absenteeism cases substantially eases the burden of proof. The authors note that the party bearing the burden of proof on more subjective issues is more likely to lose in arbitration. ARB: PREPARATION/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ POWER IMBALANCE/ RELATION TO ONGOING LITIGATION

Ramakrishna, Kilaparti "Interest articulation and lawmaking in global warming negotiations: perspectives from developing countries" (Symposium: Confronting Global Warming) Transnational Law & Contemporary Problems March 22, 1992 - Spring V.2 N.1 pp. 153-172 This article discusses the relationship between global warming negotiations and attempts to protect the ozone layer. The discussion is placed within the context of cooperation between developing and industrialized countries.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L

Raymond, Claude "Where is an arbitral award made?" (Great Britain) Law Quarterly Review January, 1992 V. 108 pp. 1-6 Author raises the issue of applicable law and awards in international arbitration disputes. A specific case example is utilized to advocate that an award should be made at the place of arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L

Reder, Donald B. "Mediation as a settlement tool for employment disputes" Labor Law Journal September 1992 V.43 N.9 pp. 602-607 Article applauds the efforts of employment dispute resolution techniques as being a low anxiety process that is quicker and more economical than standard litigation. MED: ENCOURAGING COMM AND NEG/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: GENERAL/ / SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

Redfern, Alan "International Commercial Arbitration for Today and Tomorrow" (book review) Lloyds Maritime and Commercial Law Quarterly August, 1992 N.3 pp. 411-412 This article reviews a book which highlights the debate over whether the future development of arbitration lies in an international rather than domestic context. ARB: BINDING ARB- GENERAL/ / SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ SELECTION OF APPROPRIATE PROCESS

Reichert, Douglas D. "Mixed International Arbitration: Studies in Arbitration Between States and Private Parties" (book review) Columbia Journal of International Law September 22, 1992 - Fall V.30 N.1 pp. 237-243 Book contends that international arbitration between states and private persons cannot function effectively unless it is recognized that the parties involved are of unequal status. Authors argue for recognition of the process as neither in municipal law nor in international law but rather as one that shares characteristics of each. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ ORGANIZATION POLICIES AND RULES/ POWER IMBALANCE

Reichman, Nancy "Disputing in public bureaucracies: a commentary" Studies in Law, Politics, and Society January, 1992 - Annual V.12 pp. 77-85 Organizations (like public bureaucracies) influence dispute formation and process through their cultural and structural politics. Organizations act to enhance and diminish individual and collective abilities to articulate grievances. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS

Reilly, Meegan M. "ADR is solution for benefit claims disputes, Hughes tells PWBA's Ball" (alternative dispute resolution) (William J. Hughes, David George Ball, Pension and Welfare Benefits Administration) Tax Notes August 3, 1992 V.56 N.5 pp. 617-618 Article argues that ERISA claims should be handled by ADR programs. ADR would be practical because many lawyers will not handle ERISA claims in the current state of the law. It is too expensive to litigate all claims from a complainant perspective. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

Reske, Henry J. "FBI settles race bias claim; Bureau praised for disclosing data, avoiding litigation" ABA Journal July, 1992 V.78 pp.38(1) Article gives an overview of FBI's role in settling three-hundred race discrimination suits and the release of records to investigate such

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claims. Author takes neutral approach in reporting the facts while emphasizing the FBI's willingness to resolve such claims. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ QUALITY CONTROL

Reuben, Richard C. "Banking on ADR; two of the state's biggest banks revive the debate over alternative dispute resolution" (California) California Lawyer August, 1992 V.12 N.9 pp. 17(2) Article discusses the announcements made by two of California's largest banks that they are instituting mandatory arbitration and mediation programs for certain account disputes. Some critics contend that the procedure is a mechanism designed to bypass the courts, but the banks maintain it is an efficient, cost-effective plan. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ MED: RELATED PROCESSES- GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR

Reymond, Claude "The Rainbow Warrior arbitration between Greenpeace and France" Journal of International Arbitration March, 1992 V.9 N.1 pp. 91-93 Author discusses the resolution of various disputes that followed the blowing up of the Rainbow Warrior in Auckland Harbour in July 1985. The author compares New Zealand and France's resolution of the dispute with the dispute between Greenpeace and France. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: INT'L

Rich, Elizabeth Gamsky "'Do-er' applies leadership, common sense, and negotiation skills to pro bono activities" (Gregory G. Wille) (Wisconsin) The Wisconsin Lawyer October, 1992 V.65 N.10 pp. 40(2) Lawyers should actively participate in pro bono activities. A new directory for the Milwaukee area, started by Gregory Wille, matches pro bono clients with an attorney's area of speciality. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ / NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/

**OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ
MATTER: GENERAL**

Riche, Nancy "Canadian labor speaks out" (U.S.- Mexico trade negotiations) (Latin America Struggles for Human Rights and Social Justice) National Lawyers Guild Practitioner January, 1992 - Winter V.49 N.1 pp. 9-10 The article briefly discusses the power plays behind the U.S. - Canada free trade agreement. The author asserts that negotiations are governed by the conservative government and business, rather than the Canadian labor force. **NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)**

Richman, Lionel "Tripartite arbitration: manage a trois or shot-gun marriage?" Labor Law Journal November, 1992 V.43 N.11 pp. 699-708 Article relates the case history of tripartite arbitration as it evolved in Supreme Court decisions. Authors conclude that the process clearly favors employers since it may force one party to waive contractual procedures and arbitrate against their wishes. **ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS**

Riley, Meegan M. "Unions bargaining for MEWA-type plans may be required to obtain ruling to ensure ERISA coverage" (multi-employer welfare arrangements) Tax Notes May 11, 1992 V.55 N.6 pp. 789-790 The article states that under ERISA, unions must evidence a collective bargaining agreement for union plans. These plans are similar to multi-employer welfare arrangements in order to preempt state law. **NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)**

Riskin, Leonard L. "The represented client in a settlement conference: the lessons of G. Heileman Brewing Co. v. Joseph Oat Corp. (from Washington University Law Quarterly, vol. 69, p. 1059, 1991) Defense Law Journal July, 1992 V.41 N.3 pp. 459-518 This article analyzes

the Heileman Brewing case and the coercion into a settlement conference. The author proposes that the settlement conference should be open to clients to focus more on the client's underlying interests. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: REP OF A CLIENT DURING PROCESS/ MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY

Robbins, David E. "Securities Arbitration: Law and Procedure" (book review) Arbitration Journal December 1992 V.47 N.4 pp. 66-67 Article reviews a book on the fast-growing area of securities arbitration. The authors of the book concentrate on the legal issues of the field, while discussing procedural techniques in only a summary fashion. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES

Robbins, Norman N. "Lawyer as mediator: know thy moral code" Family Advocate March 22, 1992 - Spring V.14 N.4 pp. 10(2) Article reminds lawyers, who also serve as arbitrators and mediators, that they are also bound by the rules of professional conduct. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: NEUTRALITY

Roberts, Julian V. "Mediation and Criminal Justice: Victims, Offenders and Community" (book review) Canadian Journal of Criminology April, 1992 V.34 N.2 pp. 255-259 This article reviews the above named book as well as Criminal Justice, Restitution and Reconciliation. Both books deal with mediation in the criminal justice system and Victim Offender Reconciliation Programs (VORP). MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: PRISONS/ TYPE OF SOURCE: BOOK REVIEW/ TEACHING

Robertson, Joseph H. "A hastily negotiated river compact leads to problems in equitable apportionment of the Canadian River" Natural Resources Journal June 22, 1992 - Summer V.32 N.3 pp. 705-722 Article discusses the Canadian River Compact and the resulting litigation. Litigation serves as a prime example of what can happen when negotiations for equitable apportionment of a river are hastily completed. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:
GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-
COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY
NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND
TECHNIQUES- USE OF OBJ/ SUBJ MATTER: ENVIRONMENT

Robins, Eva "In memoriam: James C. Hill, 1914-1991" National
Academy of Arbitrators Annual Meeting, Proceedings April 1992 -
Annual V.44 pp. VIII - IX A dedication in the memory of James C.
Hill--arbitrator, teacher, and friend. ARB: SERVING AS
ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL/ SUBJ
MATTER: LABOR-MANAGEMENT (UNIONS)/ 3RD PARTY:
TRAINING/ COMPARISONS: HISTORICAL/ TEACHING

Robinson, James W. "Structural characteristics of the independent union
in America revisited" Labor Law Journal September, 1992 V.43 N.9
pp. 567-578 Study of independent unions indicates that the composition
and characteristics of independent unions has changed. This change has
occurred since the author's 1967 study on the same subject and while all
of the same unions originally studied are now engaging in traditional,
collective bargaining activities. SUBJ MATTER: LABOR-GENERAL/
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF
SOURCE: CASE STUDY/RESEARCH REPORT

Roman, Harry T. "Dreaming and the art of leadership" Public Utilities
Fornightly September 1, 1992 V.130 N.5 pp. 39(3) The article focuses
on the need for dreamers who are capable of creating new and beneficial
products or services. However, in order for dreamers to co-exist with the
more conservative bean counters, a person must act as a leader and
encourage the two groups to work together. MED: RELATED
PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/
MED: PSYCH FACTORS/ 3RD PARTY: NEUTRALITY

Rose, Joseph B. "Collective Agreement Arbitration in Canada, 3d ed."
(book review) Industrial and Labor Relations Review July, 1992 V.45
N.4 pp. 818-819 Examination of the benefits and major factors of the
arbitration of collective bargaining agreements in Canada. Author portrays
Canadian labor arbitration in a positive manner through a discussion of the
benefits to both employees and employers that occur by virtue of quick,
efficient dispute resolutions within the employment setting. ARB:
MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ INST
NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER:
INSURANCE/ SETTLEMENT: PRESSURES TO SETTLE

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Rose, Marc Howard "Ethnic Conflict and dispute management: addressing interests and identities" Studies in Law, Politics and Society January, 1992 - Annual V.12 pp. 107-146 Article addresses ethnic conflict through the use of conflict management. The author asserts that there is a need to develop models of successful ethnic conflict management. Each model must be constructed to address a wide range of potential conflicts and inform interested parties that ethnic conflict is resolvable. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: PSYCH CONSIDERATIONS/ NEG: USE OF AGENTS/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ COMPARISONS: CROSS-CULTURAL/ SELECTION OF APPROPRIATE PROCESS

Rowat, Malcolm D. "Multilateral approaches to improving the investment climate of developing countries: the cases of ICSID and MIGA" (International Center for Settlement of Investment Disputes, Multilateral Investment Guarantee Agency) Harvard International Law Journal January, 1992 - Winter V.33 N.1 pp. 103-144 Article describes the efforts of the World Bank, in its creation of the ICSID and MIGA, to improve the international investment market in less developed countries. The success of the ICSID in the prevention of disputes and the creation of a fair decision-making body with its now widespread settlement procedures is discussed. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR

Rowland, Melanie J. "Bargaining for life: protecting biodiversity through mediated agreements" Environmental Law January, 1992 - Winter V.22 N.2 pp. 503-527 Conservationist author discusses problems that are specific to endangered species negotiation. The author concludes that if care is taken to avoid certain pitfalls, ADR can be a useful adjunct to other processes aimed at protecting endangered species. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ SUBJ MATTER: ENVIRONMENT

Rubenstein, Mitchell H. "Labor arbitration under New York law" New York State Bar Journal September, 1992 V.64 N.6 pp. 35(7) Rubenstein argues that under New York law, labor-management disputes have been solved by arbitration in an inexpensive and effective way.

Arbitration can be utilized to enforce and interpret collective bargaining contracts. ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ ECONOMIC ADVANTAGES OF ADR/ ISSUE & CLAIM PRECLUSIVE EFFECTS

Rubino-Sammartano, Mauro "Amiable compositeur (joint mandate to settle) and ex bono sequo (discretionary authority to mitigate strict law): apparent synonyms revisited" Journal of International Arbitration March 22, 1992 V.9 N.1 pp. 5-16 The author explores multi-national differences regarding concepts of equity historically (in particular, Roman law "acquitas") and explains how such concepts are at the foundation of the authority to arbitrate disputes. NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ COURT REFORM/ FAIRNESS

Ruggle, John Gerard "Multilateralism: the anatomy of an institution" (Symposium: Multilateralism) International Organization June 22, 1992 - Summer V.46 N.3 pp. 561-598 Article discusses the meaning of multilateralism according to historical practice. The author shows how multilateralism has been institutionalized and suggests why multilateralism may continue to play a significant role today. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL/ DISPUTE PREVENTION

Rutherford, Margaret "Arbitration law, practice and procedure" (part 3) (Great Britain) Solicitors Journal October 2, 1992 V.136 N.38 pp. 970(2) Although the arbitration system in Great Britain has enjoyed success as an effective alternative dispute resolution mechanism, some critics believe that the lack of uniformity as to awards and procedures employed could create a problem in the future. AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ JUDICIAL PARTICIPATION/ QUALITY CONTROL/ ROLE OF LAWYERS

Rutherford, Margaret "Arbitration: law, procedure and practice" (part 2) (Great Britain) Solicitors Journal September 25, 1992 V.136 N.37 pp. 938(2) In the second of a series of three articles, the author discusses the enforcement and ability to appeal arbitration awards in Great Britain. The author also outlines some of the main advantages of arbitration including cost, flexibility, speed, privacy, and ease in dealing with foreign law. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: CROSS-CULTURAL

Sander, Frank E.A. "Paying for ADR; to make it work, we have to provide funds for it" ABA Journal February, 1992 V.78 pp. 105(1) This article examines the need to reasonably compensate practitioners of ADR and move beyond the use of volunteers. Reasonable practitioner compensation will help ensure the responsible practice of ADR. One proposal urges the adoption of a set of reasonable fee rates and having disputants pay the costs. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: PUBLIC POLICY DIALOGUE/ ARB: FEES AND FUNDING OF ARBITRATOR/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ ECONOMIC ADVANTAGES OF ADR

Sang, Bin Xue "China's Civil Procedure Law: a new guide for dispute resolution in China" International Lawyer June 22, 1992 - Summer V.26 N.2 pp. 413-431 Article explores China's new civil procedure law and its effects on foreign party lawsuits in China. The new laws provide for mediation, arbitration, jurisdiction, service, pleading, discovery, trial and appeal for foreign party lawsuits in China. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: OPENING AND SETTING GUIDELINES/ MED: REP OF A CLIENT DURING PROCESS/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ SUBPOENA AND DISCOVERY

Sauer, Steven Richard "Preventing mistakes in arbitration: an arbitrator's perspective" University of West Los Angeles Law Review January, 1992 - Annual V.23 pp. 351-362 Article provides brief description of differing types of arbitration and provides a walk-through of

the entire arbitration process for lawyers. Topics include appropriate forum, selection of the arbitrator, procedure, and substantive advice for preparation.

NON-BINDING RECOMMENDATION PROC-
GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/
ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:
SELECTION OF ARBITRATOR/ ARB: TRAINING AND
QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING
OF ARBITRATOR/ ROLE OF LAWYERS

Schaikewitz, Steven "Attorney-negotiated settlements: some unsettling facts about settling a case" Georgia State Bar Journal August, 1992 V.29 N.1 pp. 10(7) The article discusses case law in Georgia concerning the authority a lawyer has to enter into a settlement without first obtaining the client's consent. The author discusses disciplinary action taken against attorneys for failing to "zealously represent" their clients. The author recommends that all attorneys "play it by the vest" and refuse to agree to any settlements without first consulting their clients.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
SUBJ MATTER: OTHER PROF MALPRACTICE/ TYPE OF SOURCE:
CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/
ETHICS: GENERAL/ ROLE OF LAWYERS

Schlissel, Stephen W. "A proposal for final and binding arbitration of initial custody determinations" Family Law Quarterly March 22, 1992 V.26 N.1 pp. 71-84 Recommending that initial custody disputes become subject to final and binding arbitration, the author stresses that the rigors of litigation in the resolution of child custody disputes are quite often traumatic and not necessarily in the "best interests of the child." NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: PSYCH CONSIDERATIONS/ MED: OBTAINING AGREEMENT TO USE/ MED: PSYCH FACTORS/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ ECONOMIC ADVANTAGES OF ADR/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE

Schreiber, Phillip M. "Potential liability of new employers to pre-existing collective bargaining agreements and pre-existing unions: a comparison of

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labor law successorship doctrines in the United States and Canada" Northwestern Journal of International Law & Business January, 1992 - Winter V.22 N.3 pp. 571-600 Article undertakes a comparison between the U.S. and Canada in their approaches to dealing with the legal effect of previously negotiated collective bargaining agreements upon a successor corporation. Author believes that the American approach is more attractive because it allows for more flexibility in terms of changes in the labor force and production. SUBJ MATTER: CORPORATE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ COMPARISONS: CROSS-CULTURAL

Schroth, Peter W. "Critical Documents Sourcebook Annotated: International Commercial Law and Arbitration" Connecticut Bar Journal April, 1992 V.66 N.2 pp. 166-167 This is a book review which discusses the existence of several international law treaties that deal with arbitration and dispute resolution. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Schwarz, Joshua L.; Koziara, Karen S. "The effect of hospital bargaining unit structure on industrial relations outcomes" Industrial and Labor Relations Review April, 1992 V.45 N.3 pp. 573-590 Case study concluded that hospitals with multiple bargaining units did not experience increased strikes, labor disputes, or wage leap-frogging. SUBJ MATTER: HOSPITALS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ LEGISLATION

Se Ryul Hong; Jan Kang "Proposed labor law changes" (South Korea) East Asian Executive Reports January 15, 1992 V.14 N.1 pp. 19(3) Article discusses the Republic of Korea's proposals for amending provisions of its labor laws in order to become eligible for membership in the international labor organization. Included in these agreements are revisions giving authority to negotiate collective bargaining agreements and provisions which free labor unions from mediation restrictions. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Sebenius, James K. "Challenging conventional explanations of international cooperation: negotiation analysis and the case of epistemic communities" (Special Issue: Knowledge, Power, and International Policy Coordination) International Organization January, 1992 - Winter V.46 N.1 pp. 323-365 Article critiques negotiation analysis in the literature on policy coordination. The author finds merit in the approaches taken in the case of communities marked by analytical and empirical confusion.
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Segal, Phyllis N. "Mediation" (Lifestyles in the Law) Boston Bar Journal November, 1992 V.36 N.5 pp. 8(2) Article provides overview of private dispute resolution as written by a lawyer who is a dispute resolution specialist. Emphasis is placed upon the mutually satisfactory resolution of differences as opposed to the traditional "winner takes all" approach found within the current adversarial system. MED: REP OF A CLIENT DURING PROCESS/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ ARB: PRIVATE JUDGING/ INST NATURE: PRIVATE, PROFIT-MAKING/ QUALITY CONTROL/ ROLE OF LAWYERS

Seidler, Marc P.; Verhey, John F. "The case for alternative dispute resolution" Franchise Law Journal March 22, 1992 V.11 N.4 pp. 107(5) This article focuses on the advantages of arbitration over litigation in the franchise context, including speed, efficiency, reduction in cost and access to fact-finders with expertise. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ ECONOMIC ADVANTAGES OF ADR

Seigel, Charles Alan "Roll over, Professor Wigmore, before arbitration does it for you" (use of binding arbitration will not improve the legal system) Journal of the Missouri Bar July, 1992 V.48 N.5 pp. 347(4) This article takes a critical look at the current rush to join in binding arbitration as an abandonment of the traditional and developed body of law and as harmful because the arbitrator's decision may be contrary to law, yet still bind the parties. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ ECONOMIC ADVANTAGES OF ADR

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Sempasa, Samson L. "Obstacles to International Commercial Arbitration in African Countries" International and Comparative Law Quarterly April, 1992 V.41 N.2 pp.387-413 This article explores the views, difficulties, and considerations of the international commercial arbitration and their search for new principles and rules that serve the interests of all who engage in international trade. NEG: CULTURAL CONSIDERATIONS/ ARB: PREPARATION/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

Seng, Michael P. "Conscientious objection: will the United States accomodate those who reject violence as a means of dispute resolution?" Seton Hall Law Review December 22, 1992 - Winter V. 23 N.2 pp. 121-152 This article explores the opportunity to change current U.S. laws. SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ DISPUTE PREVENTION

Serventy, Natasha "Settlement week success: 500 matters listed for mediation" Law Society Journal December, 1992 V.30 N.11 pp. 70(1) This article briefly discusses the success of settlement week in New South Wales, where 500 cases were set for mediation. MED: PRETRIAL CONF/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE

Shane, Peter M. "Negotiating for knowledge: administrative responses to congressional demands for information" Administrative Law Review August 11, 1992 - Spring V.44 N.2 pp. 197-244 A proposal for structured negotiations between Congress and certain administrative agencies could help resolve many problems. Problems such as the proper scope of information sharing could be handled more efficiently through the use of structured negotiations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T

Shapiro, Barry E. "The future of labor relations in the federal sector (Industrial Relations Research Association: Proceedings of the 1992 Spring Meeting)" Labor Law Journal August, 1992 V.43 N.8 pp. 508-513 Article represents a record of part of the proceedings of the Industrial Relations Research Association's 1992 spring meeting. The article

discusses how labor-management relations can best be improved, how such an improvement can have a positive effect on the corporate entity, and on dispute prevention. A model compact is presented from the Collective Bargaining Forum which is designed to improve labor-management relations. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ ARB: BINDING ARB-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ CONFERENCE PROCEEDINGS/ DISPUTE PREVENTION/ LEGISLATION

Sharp, William L. "Collective negotiations: an historical perspective" Journal of Collective Negotiations in the Public Sector June 22, 1992 - Summer V.21 N.3 pp. 231-237 Bargaining in the public schools has brought about conflict and competition between the National Education Association, American Federation of Teachers, and the National School Boards Association resulting in the passage, in most states, of collective bargaining laws in an effort to solve these conflicts. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: EDUCATION/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Shavell, Steven "Suit versus settlement when parties seek nonmonetary judgments" Journal of Legal Studies September, 1992 V.22 N.1 pp. 1-13 Article discusses and analyzes those situations in which plaintiffs seeking nonmonetary judgments will settle or go to trial. Author distinguishes those cases where the judgment sought is indivisible and those cases where the judgment sought is divisible. INST NATURE: GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ ECONOMIC ADVANTAGES OF ADR

Shearer, Robert A. "The impact of employment arbitration agreements on sex discrimination claims: the trend toward nonjudicial resolution" Employee Relations Law Journal December 22, 1992 V.18 N.3 pp. 479-488 The article examines courts which have extended a Supreme Court decision ordering arbitration of an age discrimination claim to sex discrimination claims and instructs the reader on how to form such arbitral agreements. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB

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AGREEMENT/ SUBJ MATTER: LABOR-DISCRIMINATION/
REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS:
MANDATE TO USE/ ECONOMIC ADVANTAGES OF ADR

Shearer, Robert A. "Arbitrability, preemption, and preclusion: developing issues in age discrimination claims" Labor Law Journal May, 1992 V.43 N.5 pp. 313-317 Age discrimination claims are losing access to the courts due to recent Supreme Court decisions which have upheld arbitration agreements in such claims. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-DISCRIMINATION/ / FAIRNESS

Shelton, Frank "Mediation and the courts" (Australia) Law Institute Journal October, 1992 V.66 N.10 p. 869 Article analyzes a recent Australian case in which the judge favorably remarked on mediation and endorsed the possibility of the court mandating mediation even though one or more of the parties are reluctant to do so. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ INST NATURE: GENERAL

Shropshire, Kenneth L. "Baseball salary arbitration in Japan" The Entertainment and Sports Lawyer January, 1992 - Winter V.9 N.4 pp. 17(2) Author examines Japanese arbitration regarding professional baseball players' salaries. The Japanese teams were able to make arbitration work in their favor and lower players' salaries to a reasonable level. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: SPORTS & ENTERTAINMENT

Shukla, P.K.; Bruno, James "Application of conjoint measurement procedures to collective bargaining research in school personnel administration" Journal of Collective Negotiations in the Public Sector June 22, 1992 - Summer V.21 N.3 pp. 199-211 This article argues that conjoint analysis which assess actual preference structures rather than merely surveying desires should be used by negotiating teams in collective bargaining NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ

MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Shuller, Donald J. "Techniques to reduce lender liability risk" Probate & Property May, 1992 V.6 N.3 pp. 16(4) The article considers the use of jury trial waiver and arbitration clause provisions in loan documents in order to reduce a lender's liability exposure. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: BINDING ARB-GENERAL/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL

Silverman, Barry C. "Voluntary commercial arbitration: carefully constructed contract clauses can cure countless conflicts" John Marshall Law Review January, 1992 - Winter V.25 N.2 pp. 309-347 Student comment discusses the development of the current national policy favoring arbitration as a method of settling controversies and considerations which should be addressed in constructing an arbitration agreement. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: PREPARATION/ ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL

Singer, David "Mediation - a growing means for settling divorce conflicts" Arbitration Journal December, 1992 V.47 N.4 pp. 21-25 The courtroom is not designed to settle the personal, emotionally- charged battles that often accompany divorce. Mediation proceedings tend to provide a better opportunity for the resolution of divorce cases and, in particular, those divorces that involve child custody issues. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM-FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ FAIRNESS

Singer, Thomas; Schaefer, Matt "Multilateral trade agreements and U.S. states: an analysis of potential GATT Uruguay Round agreements" Journal of World Trade December, 1992 V.26 N.6 pp. 31-59 Article undertakes discussion of ADR between a state and the federal government which was enabled by changes in the Uruguay GATT negotiations. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L

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Sloane, Owen J. "Negotiation contracts for entertainers in gaming venues" (Entertainment Law Symposium Issue) Beverly Hills Bar Association Journal June 22, 1992 - Summer V.26 N.3 pp. 128(2) The article discusses the interpretation and construction that should be given to negotiation contracts for entertainers in casinos and other gaming venues.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: SPORTS &
ENTERTAINMENT

Smallwood, Donald E. "Who needs an ADR bill? Lawyers can tackle litigiousness without Legislature's permission" (California) The Los Angeles Daily Journal June 11, 1992 V.105 N.113 p. 6 This article argues that it is the responsibility of lawyers, not legislators, to bring the advantages of ADR to the public. MED: ENCOURAGING COMM

AND NEG/ ARB: CLIENT REP/ SUBJ MATTER: PUBLIC POLICY/
ETHICS: GENERAL/ ROLE OF LAWYERS

Smith, Patrick D. "Arbitration - the court opens the door to arbitration of employment disputes" The Journal of Corporation Law June 22, 1992 - Summer V.17 N.4 pp. 865-886 Article discusses Gilmes v. Interstate/Johnon Lane Corp. in which the court confronts the conflicting policies involved when an employee who has agreed to arbitrate employment disputes brings an age discrimination claim in federal court against an employer. The impact of this decision on future employment litigation is examined. ARB: MANDATORY, COURT-ANNEXED-

GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/
ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ
MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-
DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT
(UNIONS)/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR
AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COURT
REFORM

Sondock, Ruby K.; Phillips, David L. "Preparing and presenting evidence in an ADR proceedings" (Texas) Texas Bar Journal December, 1992 V.55 N.11 pp. 1130(4) Article suggests ideas and proper methodology for preparing and presenting evidence in ADR proceedings. Author identifies three broad categories of ADR proceedings: settlement facilitation procedures, adjudication procedures and case evaluation procedures. NEG: TACTICS, STRATEGIES AND TECHNIQUES-

GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF
OBJ/ COURT REFORM

Spaeder, Roger C. "The challenge of negotiating immunity; what you must know before you seek immunity for your client" Criminal Justice June 22, 1992 - Summer V.7 N.2 pp. 8(7) This article discusses some legal questions raised by immunity negotiations for a defense attorney who negotiates with the government to obtain immunity in exchange for a witness testimony in a judicial proceeding. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ INST NATURE: GENERAL/ SUBJ MATTER: CRIMINAL

Spencer, Dayle E.; Yang, Honggang "Lessons from the field of intranational conflict resolution" Notre Dame Law Review July, 1992 V.67 N.5 pp. 1495-1517 This article focuses on the use of mediation using an expert convener to resolve the conflict between the People's Democratic Republic of Ethiopia and the Eritsean People's Liberation Front in mid to late 1989. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L

Spencer, Glen H. "The awardability of attorneys' fees in private arbitration" Arizona Attorney April, 1992 V.28 N.8 pp. 20(3) This article discusses the uncertainties surrounding an Arizona statute that may allow arbitrators to award parties' attorney fees. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ SUBJ MATTER: COMMERCIAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ LEGISLATION

St. Antoine, Theodore J. "The Model Employment Termination Act: fairness for employee and employers alike" (Industrial Relations Research Association: Proceedings of the 1992 Spring Meeting) Labor Law Journal August, 1992 V.43 N.8 pp. 495-500 Article discusses common law exceptions to the employee at will doctrine and the advantages of the Model Employment Termination Act (META) over the current civil suit method for purported wrongful discharge from employment. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

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Stauffer, Ian R. "Offers to settle revisited" (Ontario) Advocates' Quarterly December, 1992 V.14 N.3 pp. 257-274 Article discusses Rule 49.10 (offers to settle) as interpreted in Canadian courts. Authors focus on the award of costs to the offering party who is successful at trial by Canadian courts. SUBJ MATTER: INT'L

Stern, Brigitte "Un systeme hybride: la procedure de reglement pour la reparation des dommages resultant de l'occupation illicite du Koweit par Irak" (Kuwait, Iraq) (Dispute Resolution Involving States) McGill Law Journal August, 1992 V.37 N.2 pp. 625-644 Article deals with reparations owed to Kuwait by Iraq due to its belligerent occupation. Text of article is in French. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: INT'L/ ORGANIZATION POLICIES AND RULES

Stipanowich, Thomas J.; Henderson, Douglas A. "Settling construction disputes by mediation, mini-trial and other processes--the ABA Forum survey" Construction Lawyer April, 1992 V.12 N.2 pp. 6(5) This article reports the results of a 1990-91 survey, sponsored by the forum on the construction industry, designed to measure the roles of mediation, mini-trial, summary jury trial, and non-binding arbitration in settling construction disputes. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSTRUCTION/ SELECTION OF APPROPRIATE PROCESS

Stone, John "Power, ethnicity and conflict resolution" Studies in Law, Politics, and Society January, 1992 - Annual V.12 pp. 89-105 Article discusses the need to balance power between conflicting ethnic factions in order to obtain the effective dispute resolution. Author proposes a number of alternatives but concludes none are full proof. More research is needed. SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L

Stone, Katherine Van Wezel "The legacy of industrial pluralism: the tension between individual employment rights and the New Deal collective bargaining system" University of Chicago Law Review March 22, 1992 - Spring V.59 N.2 pp. 575-644 Article discusses the disadvantages unionized workers experience as a result of their individual rights being preempted by their collective bargaining rights. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB:

**MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:
PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/
FAIRNESS**

Strauss, George "A Behavioral Theory of Labour Negotiations: An Analysis of a Social Interaction System, 2d ed." (book review) *Industrial Labor Relations Review* October, 1992 V.46 N.1 pp. 192-194 Author reviews the newest edition of, *A Behavioral Theory of Labor Negotiations* while pondering the book's influence on labor negotiation. The article examines the potential influence the book may have on both terminology and theory. **NEG: TACTICS, STRATEGIES AND TECHNIQUES-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: BOOK REVIEW**

Street, Laurence "Expert evidence in arbitrations and references" (Australia) *Australian Law Journal* December, 1992 V.66 N.12 pp. 861-862 The author, former Chief Justice of New South Wales, proposes a method for the use of expert opinions in which all the experts involved in a case would meet and prepare a joint report. The report would report on matters upon which they unanimously agreed, which then could be utilized in the arbitration of the case. **ARB: MANDATORY, COURT-ANNEXED- GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION/ SUBPOENA AND DISCOVERY**

Street, Laurence "The language of alternative dispute resolution" *Australian Law Journal* April, 1992 V.66 N.4 pp.194-198 This article provides brief definitions of several commonly used terms in ADR. **MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: GENERAL**

Strickland, Henry C. "The Federal Arbitration Act's interstate commerce requirement: what's left for state arbitration law?" *Hofstra Law Review* January, 1992 - Winter V.21 N.2 pp. 385-360 Author discusses the controversy concerning when a contract "involves commerce" under the Federal Arbitration Act and is therefore governed by federal law. The author criticizes the FAA as legislation that has failed to give state courts sufficient guidance in determining whether certain conduct involves commerce. **ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: REGULATORY/ LEGISLATION**

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Sturzenegger, Marc "ICSID arbitration and annulment for failure to state reasons; the decision of the Ad Hoc Committee in Maritime International Nominees Establishment v. Republic of Guinea" Journal of International Arbitration December, 1992 V.9 N.4 pp. 173-198 Article discusses the inadequacy of the ICSID convention. These inadequacies serve to demonstrate the current need for revision provisions which have had a gloss placed upon them by successive ad hoc committee decisions. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ ORGANIZATION POLICIES AND RULES

Svernlov, Carl M. "The evolution of the doctrine of separability in England: now virtually complete?" Journal of International Arbitration September, 1992 V.9 N.3 pp. 115-121 This article focuses on the modern trend in international arbitration which regards an arbitration clause within a contract as a separate and autonomous contract. This theory is called the doctrine of separability, which the author suggests has been only tepidly accepted in English law. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L

Swank, Deborah R. "Arbitration and salary inflation in major league baseball" Journal of Dispute Resolution March 22, 1992 V.1992 N.1 pp. 159-173 The author discusses how free agency and the special rules of salary arbitration have combined to artificially inflate the salaries of major league baseball players. ARB: FINAL OFFER ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ SETTLEMENT: PRESSURES TO SETTLE/ POWER IMBALANCE

Swanton, Jane "'Contract law' - agreements to 'negotiate,' 'deal,' 'consult,' or 'confer.'" (Australia) Australian Law Journal November, 1992 V.66 N.11 pp. 744-747 Author discusses the legal significance and validity of contractual agreements to negotiate, consult or confer as determined by the holdings of two recent Australian cases. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ SETTLEMENT: AUTHORITY/ AGREEMENT ON PROCEDURE

Thatcher, Sharon "Grievance arbitration awards: where is the interest in interest?" The Labor Lawyer March 22, 1992 - Spring V.8 N.2 pp. 211-224 This article argues that the arbitrator's traditional reasons for not awarding interest on back pay in grievance arbitration awards are no longer valid and should be abandoned in favor of a more enlightened approach. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL

Thokes, Robert J. "Regionality in Minnesota school district teacher salary levels" Journal of Collective Negotiations in the Public Sector January, 1992 - Winter V.21 N.1 pp. 93-100 The author explores the idea that expertise in negotiating and the specific negotiating process used can have a major impact on the salary of teachers, regardless of level of merit. Further, the author makes comparisons among certain school districts in Minnesota which are closely situated. NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: USE OF BARGAINING TEAMS/ TEACHING

Thomas, Steven L.; Kleiner, Morris M. "The effect of two-tier collective bargaining agreements on shareholder equity" Industrial and Labor Relations Review January, 1992 V.45 N.2 pp. 339-351 This article examines the impact of two-tier wage agreements in collective bargaining agreements on shareholder equity from 1981 to 1986; it states that the two-tier approach is not generally valued in financial matters. SUBJ MATTER: CORPORATE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Thompson, Brenda V. "Corporate ombudsman and privileged communications: should employee communications to corporate ombudsman be entitled to privilege?" University of Cincinnati Law Review September 22, 1992 - Fall V.61 N.2 pp. 653-679 The article explores the levels of confidentiality that are currently given to certain types of communications and hypothesizes about where corporate ombudsman communications should fall in the confidentiality spectrum. CONFIDENTIALITY/ DISPUTE NEG. v. DEAL MAKING/ ETHICS: GENERAL/ OMBUDSPERSON

Thoms, William E.; Dooley, Frank J. "Collective bargaining under the Railway Labor Act" Transportation Law Journal January, 1992 - Winter V.20 N.2 pp. 275-291 The authors guide the reader through the

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Railway Labor Act which deals primarily with the settlement of labor disputes through ongoing collective bargaining. The Act provides for mediation and arbitration when negotiations fail. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: USE OF BARGAINING TEAMS/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: MANDATE TO USE

Thornicroft, Kenneth Wm. "Constitutional law - Charter of Rights and Freedoms - compulsory payment of union dues - use for collective bargaining and non-bargaining purposes: Lavigne v. The Ontario Public Service Employees Union" Canadian Law Review March, 1992 V.71 N.1 pp. 155-66 Unlike in the United States, Canadian labor unions may make contributions to a political candidate, organization, or cause of their choosing. Such a use of members' dues does not infringe on the right to association of individual union members. SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ FAIRNESS/ ORGANIZATION POLICIES AND RULES

Thuilleaux, Sabine; Proctor, Dean M. "L'application des conventions d'arbitrage au Canada: une difficile coexistence entre les competences judiciaire et arbitrale (International Dispute Resolution Involving Private Parties) McGill Law Journal August, 1992 V.37 N.2 pp. 470-510 The authors examine jurisprudence from Quebec and from common law provinces that have dealt with the application of arbitration agreements. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L/ SELECTION OF APPROPRIATE PROCESS

Tiefenbrun, Susan W. "A comparison of international arbitral rules" Boston College International and Comparative Law Review January, 1992 - Winter V.15 N.1 pp. 25-49 The author shows the relative differences in international rules which govern arbitration proceedings. While it seems obvious that the rules of arbitration should be in accord with applicable substantive law, the issue becomes much more complicated when international parties are involved. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L

Topol, David H. "Union shops, state action, and the National Labor Relations Act" Yale Law Journal March, 1992 V.101 N.5 pp. 1135-1158 This article looks at the unresolved question of whether state action exists in union shops governed by the NLRA. The author concludes that the union should be considered a state actor, given its statutory aid, and the employees should be able to challenge collective bargaining agreements on constitutional grounds. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Trevino, Benjamin "Labour negotiations - collective bargaining" The Advocate May, 1992 V.50 N.3 pp. 365(9) Provides a detailed account of the success of arbitration in labor negotiations and collective bargaining in Canada. NEG: USE OF BARGAINING TEAMS/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Tribe, Diana; Korgaonkar, Gill "Arbitration for medical negligence in the NHS" (Great Britain's National Health Service) Solicitors Journal April 10, 1992 V.136 N.14 pp. 336(2) The authors examine the proposal for "paper arbitration" of medical negligence claims in Great Britain's National Health Service and determine that it will not do justice for those with legitimate grievances. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-FEES & FUNDING/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: MEDICAL MALPRACTICE

Turro, John "Dividend issue holding up U.S.-Mexico tax treaty negotiations" Tax Notes International March 23, 1992 V.4 N.12 pp. 573-574 Article deals with the tax treaty negotiations between two countries and the possibility of settling the current and future disputes with compulsory arbitration. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: TAX/ REQUIREMENTS: MANDATE TO USE

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Turro, John "U.S., Netherlands sign tax treaty; break new ground on benefit limits" Tax Notes December 28, 1992 V.57 N.14 pp. 1732-1735 This article includes a short explanation of Article 29(5) of the U.S.-Netherlands tax treaty of 1992, which provides for voluntary arbitration if the competent authorities fail to reach agreement. SUBJ MATTER: GOV'T/ SUBJ MATTER: TAX/ LEGISLATION

Tyrell, John "Conciliation and mediation of international commercial disputes - the lawyer's role" The International Construction Law Review July, 1992 V.9 N.3 pp. 351-383 A discussion of mediation in international, commercial disputes and the important role that a lawyer plays in resolving disputes in this context. The article emphasizes the fact that mediation is particularly valuable in international disputes since a judicial forum may not be convenient for both parties. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: REGULATORY/ CONFIDENTIALITY/ PROVISIONAL REMEDIES/ QUALITY CONTROL

Uff, John "Dispute Resolution: Expert Determination" (book review) New Law Journal October 23, 1992 V.142 N.6573 pp. 1456(1) Book deals with the possibility of securing appointment of experts in lieu of standard arbitrators to resolve disputes. It suggests that experts might provide the advantages which are normally associated with arbitration. SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW

Umbreit, Mark S.; Coates, Robert B. "The impact of mediating victim offender conflict: an analysis of programs in three states" Juvenile and Family Court Journal January, 1992 - Winter V.43 N.1 pp. 21-28 This article presents the results of an analysis of victim offender mediation programs in three juvenile courts in the United States. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS

Van Wezel Stone, Katherine "The legacy of industrial pluralism: individual employment rights and the New Deal collective bargaining system" Cornell Law Forum March 22, 1992 V.19 N.1 pp. 2-5 This article discusses the rise of employment rights for individual worker amidst the decline of unions in the 1980s. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ FAIRNESS

Van Winkle, John R. "Mediation: an analysis of Indiana's court-annexed mediation rule" Indiana Law Review September 22, 1992 V.25 N.4 pp. 957-979 This paper focuses on the adopted rules for alternative dispute resolution in Indiana, focusing on the specifics of the mediation aspect of the rules. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: PUBLIC POLICY DIALOGUE/ MED: DRAFTING SETTLEMENT AGREEMENTS/ NON-BINDING RECOMMENDATION PROC- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Van Winkle, John R. "Lawyer's role in Indiana's new mediation process" Res Gestae November, 1992 V.36 N.5 pp. 216(5) An overview of the role of private attorneys in Indiana's mediation process, stressing that lawyers must be prepared to compromise, rather than to win at all cost if the new system is to be effective. MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ MED: DRAFTING SETTLEMENT AGREEMENTS/ MED: IND ATTY REVIEW/ 3RD PARTY: PRACTICE OF LAW/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM/ ORGANIZATION POLICIES AND RULES/ ROLE OF LAWYERS

VanDeusen, Darrell R. "Time for alternative dispute resolution" (use of ADR by employers, including law firms) Legal Management November, 1992 V.11 N.6 pp. 16(2) This article discusses the need for alternatives to litigation, the benefits of ADR and characteristics of those who consider ADR. SUBJ MATTER: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC POLICY/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

Varchaver, Nicholas "Dispute Resolution" (growth of Judicial Arbitration and Mediation Services; includes related article) American Lawyer April, 1992 V.14 N.3 pp. 60(6) A description of a very large private mediation/arbitration service, Judicial Arbitration and Mediation Service (JAMS), which uses retired judges as arbitrators. MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING GUIDELINES/ MED: CAUCUSING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/

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ARB: SERVING AS ARBITRATOR/ ARB: PRIVATE JUDGING/
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/
SETTLEMENT: PRESSURES TO SETTLE/ ECONOMIC
ADVANTAGES OF ADR

Vecchi, Sesto E. "Joint Ventures in Vietnam: negotiating the agreement"
East Asian Executive Reports August 15, 1992 V.14 N.8 pp. 9(5) The
use of negotiations early in the business planning process between parties
establishing a joint venture in Vietnam will significantly reduce problems
which typically arise in the international trade area. NEG: TACTICS,
STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER:
CORPORATE/ SUBJ MATTER: INT'L

Vermulst, Edwin A. "Rules of origin as commercial policy instruments -
revisted" (excerpt from 'Rules of Origin in International Trade: A
Comparative Study') Journal of World Trade December, 1992 V.26
N.6 pp. 61-102 This article discusses rule of origin laws, which allow
the restriction of trade based on the origin of the product. It compares the
rule of origin laws of several nations and discusses their use in
antidumping cases in the Uruguay Round of GATT negotiation. NEG:
W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST
NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ TYPE OF
SOURCE: CASE STUDY/RESEARCH REPORT/ ORGANIZATION
POLICIES AND RULES

von Bogdandy, Armin "The non-violation procedure of Article XXIII:2,
GATT" (trade dispute settlement) Journal of World Trade August, 1992
V.26 N.4 pp. 95-111 The article discusses the dispute settlement
procedures of the General Agreement on Tariffs and Trade (GATT),
which the author credits as one of the more successful international
agreements; particular attention is focused on the procedure for settling
non-violation complaints. MED: RELATED PROCESSES-GENERAL/
INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/
SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR
RULES

von Mehren, Robert B. "Rules of arbitral bodies considered from a
practical point of view" Journal of International Arbitration September,
1992 V.9 N.3 pp. 105-114 This article was written to explain the vast
selection of the arbitral institutions and rules for the settlement of
international commercial disputes so that readers may make an informed
choice when advising clients. ARB: BINDING ARB- GENERAL/

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

von Mehren, Robert B. "Arbitration in Central Europe: a practitioner's view" (Arbitration in New Europe) Arbitration Journal September, 1992 V.47 N.3 pp. 38-41 This article discusses the problem facing Central and Eastern Europe as they move from mandatory arbitration under the old regime to voluntary arbitration prevalent in democracies. **ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ COMPARISONS: HISTORICAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: MANDATE TO USE**

von Mehren, Robert B. "Aspects of the Administration of International Justice" (book review) Arbitration Journal March, 1992 V.47 N.1 pp. 65(1) This article is a book review which covers the various systems for administration of justice among countries. **ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW**

Wagner, Robert H. "The other side of the coin" (how to handle client's grievances) New York State Bar Journal February, 1992 V.64 N.2 pp. 42(2) This article briefly discusses the options a client might take when pursuing a grievance against his/her attorney. One option some state bar associations use is a mediation/arbitration committee to handle client-attorney grievances. **MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: OTHER PROF MALPRACTICE**

Wallenstein, Peter "Global patterns of conflict and the role of third parties" (includes discussion) (Symposium: Theories of Dispute Resolution) Notre Dame Law Review July, 1992 V.67 N.5 pp. 1409-1431 The ending of the cold war has provided new conflicts in the international arena and conflict resolution with third parties acting as listening instruments may help with the peace building process. **NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L**

Weiler, Joseph M. "Legal analysis of the NHL player's contract" (includes transcript of contract) (The First Annual Sports Dollars & Sense

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Conference: A Symposium on Sports Industry Contracts and Negotiations) Marquette Sports Law Journal September 22, 1992 - Fall V.3 N.1 pp. 59-83 This article reviews recent major legal events in the NHL in analyzing a NHL Standard Player's Contract; including the internationalization of the league, the impact of restricted free agency, the recent strike and grievance arbitration, and the failure of the players and management to address player drug use and injury issues. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: SPORTS & ENTERTAINMENT

Weis, Joseph F., Jr. "Are courts obsolete?" (includes discussion) (Symposium: Theories of Dispute Resolution) Notre Dame Law Review July, 1992 V.67 N.5 pp. 1385-1407 The article discusses the failure of the legal system in resolving disputes and discusses how alternative methods of dispute resolution have, in many cases, surpassed the adversarial system in accomplishing this task. The realization of the inadequacies of the legal system has caused mixed reactions from those who work within the system who are reluctant to change methods of resolving legal disputes. INST NATURE: GENERAL/ COMPLIANCE ISSUES/ COURT REFORM/ QUALITY CONTROL

Weisbord, Ellyn S. "Normative standards of discipline: the equity of 3020-A" (section 3020-A of the New York Education Law) Journal of Collective Negotiations in the Public Sector October, 1992 - Summer V.21 N.3 pp. 183-198 The article discusses the differing outcomes in panel decisions and in appeals to the Commissioner of Education in dismissals of tenured teachers. The study found the panel resolved the disputes more favorably for the teachers than did the Commissioner who did not consider mitigating factors and who adhered to the strict normative standards. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: EDUCATION

Weller, Steven "Court enforcement of mediated agreements: should contract law be applied?" Judges Journal January, 1992 - Winter V.31 N.1 pp. 13(5) This article determines that the principles of contract law are not always appropriate for enforcing mediated agreements and proposes an alternative enforcement approach. MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ SETTLEMENT: PRESSURES TO SETTLE/ FAIRNESS/ POWER IMBALANCE

Werner, Jacques "Adjudication of International Trade Disputes in International and National Economic Law" (book review) Journal of International Arbitration December, 1992 V.9 N.4 pp. 200-201 The article reviews a book dealing with the various methods for settling international trade disputes between states or involving states. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ORGANIZATION POLICIES AND RULES

Werner, Jacques "Dissenting opinions: beyond fears" (opinions of minority arbitrators) Journal of International Arbitration December, 1992 V.9 N.4 pp. 23-29 The author addresses some questions and issues that have been raised by arbitrators working in the area of international law. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: INT'L

White, R.H.H. "The government role - negotiation, legislation and litigation" Civil Justice Quarterly January, 1992 V.11 pp. 52-61 The article examines the efforts of the government of Great Britain to encourage alternative dispute resolution and to increase the government's own use of alternative dispute resolution. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ LEGISLATION

Whitson, Sarah Leah "Neither fish, nor flesh, nor good red herring Lok Adalats: an experiment in informal dispute resolution in India" Hastings International and Comparative Law Review March 22, 1992 - Spring V.15 N.3 pp. 391-445 Author discusses the latest attempts to reform the Indian legal system by emphasizing informal justice. Lok Adalats are designed to provide speedy and informal resolution of disputes through conciliation and mediation at a local level. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Whittaker, Maria C. "Gilmer v. Interstate: liberal policy favoring arbitration trammels policy against employment discrimination" Albany Law Review December 22, 1992 - Winter V.56 N.2 pp. 273-335 The author criticizes the Supreme Court's decision in Gilmer v Interstate which upheld the mandatory arbitration of a claim under the Age Discrimination in Employment Act. The author characterizes the decision as contrary to the public policy against employment discrimination, while unequivocally

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favoring commercial arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS: MANDATE TO USE/ POWER IMBALANCE

Wilburn, Dedra L. "The North American Free Trade Agreement: sending U.S. jobs south of the border" North Carolina Journal of International Law and Commercial Regulation June 22, 1992 - Summer V.17 N.3 pp. 489-507 This article examines the events leading to NAFTA, explores the possible effects NAFTA will have on U.S. and Mexican labor, and discusses the criticisms and merits. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ COMPARISONS: HISTORICAL

Williams, Megan J.F. "The Federal Arbitration Act and the power of the district court" Ohio State Journal on Dispute Resolution March 22, 1992 - Spring V.7 N.2 pp. 389-405 The article examines the controversial interpretation of the Federal Arbitration Act by some federal district courts as authorizing such courts to issue a preliminary injunction to preserve the status quo once it has determined a case arbitrable. ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ COURT REFORM/ JUDICIAL PARTICIPATION/ LEGISLATION/ PROVISIONAL REMEDIES

Wilson, Michael J. "The Insurance Ombudsman Bureau: 1991 annual report" Solicitors Journal April 17, 1992 V.136 N.15 pp. 364(2) The author reviews eight significant decisions of Britain's Insurance Ombudsman Bureau. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INSURANCE/ OMBUDSPERSON

Winship, Peter "Lex Mercatoria and Arbitration: A Discussion of the New Law Merchant" (book review) International Lawyer September 22, 1992 - Fall V.26 N.3 pp. 850-853 Book review discussing the concept of "lex Mercatoria" - an international law for transnational business; the book is a compilation of essays by various international scholars. SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Wolkinson, Benjamin W.; Nichol, Victor "The arbitration of discrimination claims in employment cases" Arbitration Journal September, 1992 V.47 N.3 pp. 20-30 The author discusses the

problems caused when employers and unions attempt to limit employment discrimination claims to relief under their collective bargaining agreement or in court, but not both.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ ECONOMIC ADVANTAGES OF ADR

Wolters, Roger S.; Langdon, Stewart D. "The duty to bargain over business decisions: the Dubuque case" Labor Law Journal September, 1992 V.43 N.9 pp. 579-587 Examination of key court and National Labor Relations Board decisions to define the duty to bargain over business decisions. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ POWER IMBALANCE

Wong, David B. "Coping with moral conflict and ambiguity" (Symposium on Pluralism and Ethical Theory) Ethics July, 1992 V.102 N.4 pp. 763-784 The article examines accommodation as an appropriate method of resolving moral conflict within a community setting. The author emphasizes the fact that communities share basic moral values which can be used as a foundation in dealing with differences if those in the community are willing to compromise. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ/ SUBJ MATTER: COMMERCIAL/ DISPUTE NEG. v. DEAL MAKING/ QUALITY CONTROL

Wright, Richard "The European Community's view of the Uruguay Round: a brief perspective" (Symposium: The Uruguay Round and the Future of World Trade) Brooklyn Journal of International Law January, 1992 V.18 N.1 pp. 95-100 This article discusses the various issues discussed by representatives of the U.S. and the European Community about the GATT system. It describes the desires of both sides and how each side has negotiated their disputes to implement a successful GATT system. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND

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Yakley, Bonnie L. "Insurance for mediators" Res Gestae May, 1992 V.35 N.11 pp. 534(1) As mediation and arbitration grow throughout the United States, many insurance companies are considering providing coverage on their policies for alternative dispute resolution, realizing that it may be more time and cost efficient in the long-run. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INSURANCE/ ECONOMIC ADVANTAGES OF ADR/ QUALITY CONTROL

Yost, Ellen G. "The United States perspective on negotiations for a North American Free Trade Agreement" International Law Practicum September 22, 1992 - Autumn V.5 N.2 pp. 67(4) Article describes the negotiation process involved in reaching a trade agreement. Author identifies the objectives of the United States in the negotiation of the North American Free Trade Agreement (NAFTA) and the opposition that will most likely be encountered. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL INST NATURE: GOV'T ENTITIES SUBJ MATTER: INT'L

Yuen, Michele "Letting daddy die: adopting new standards for surrogate decisionmaking" UCLA Law Review February, 1992 V.39 N.3 pp. 581-632 The article proposes the use of arbitration in Euthanasia decisions in order to reduce possibilities of premature termination of the patient's life and to reduce physician liability. NON-BINDING RECOMMENDATION PROC- GENERAL/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: MEDICAL MALPRACTICE

Zablotsky, Peter "The continuing availability of retaliatory discharge and other state tort causes of action to employees covered by collective bargaining agreements" Albany Law Review December 22, 1992 -

Winter V.56 N.2 pp. 371-402 The author discusses an analytical framework developed by the courts which analyzes state tort claims applicable to employees covered by collective bargaining agreements and determines whether the claims are preempted by section 301(a) of the Labor Management Relations Act. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: OTHER TORTS/ REQUIREMENTS: STATUTORY OR RULES

Zipper, Arnold M. "Toward the termination of licensed U.S. foreign subsidiary trade with Cuba: the legal and political obstacles" Law and Policy in International Business June 22, 1992 - Summer V.23 N.4 pp. 1045-1069 The note advocates legislative proposal to eliminate U.S. foreign subsidiary trading with Cuba. Author addresses legal and diplomatic problems associated with the practical application of proposed legislation following its recent enactment. SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ LEGISLATION

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Zitrin, Richard "Emerging ethical issues in mediation; with few standards to guide them, mediators sometimes differ in their approaches" California Lawyer April, 1992 V.12 N.4 pp. 66(3) This article outlines the increased use of mediation in the practice of law and the lack of uniformity in the goals, qualifications, and procedures of a sampling of several different mediators. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: CAUCUSING/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: PRACTICE OF LAW/ SETTLEMENT: PRESSURES TO SETTLE/ CONFIDENTIALITY/ ETHICS: GENERAL

Zuckerman, Roger E.; Smith, Eleanor H. "Family ties: when prosecutors overreach" Criminal Justice March 22, 1992 - Spring V.7 N.1 pp. 22(8) The article discusses the problems posed by prosecutors who seek to influence suspects to plead or cooperate by threatening to prosecute relatives and examines the legal arguments available to defense attorneys to thwart the use of such tactics of intimidation. NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: PSYCH CONSIDERATIONS/ INST NATURE: JUSTICE SYSTEM-CRIM COURTS/ SUBJ MATTER: CRIMINAL/ SETTLEMENT: PRESSURES TO SETTLE/ ETHICS: GENERAL/ POWER IMBALANCE

